

Empty Promises: The Racial Implications of the Social Contracts of Locke, Rousseau, and Rawls

An Honors Thesis (POLS 404)

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Abstract

Western political philosophy owes a great debt to social contractualism. In particular, the liberal tradition that is often lauded as a guarantee of justice, liberty, and equality for all finds its roots in the social contracts of John Locke and Jean Jaques Rousseau, and later, John Rawls. Yet the implications that each of these social contracts have for race is troubling, even as the social construct of race emerges and develops throughout time. I argue that each of these social contracts perpetuates a given understanding of race that creates subordinating dynamics between white and non-white individuals. Specifically, Locke's proto-racialized contract excludes non-Europeans from personhood on the basis of labor and rationality; Rousseau's racialized contract excludes non-Europeans from full personhood on the basis of climate and civilizational potential; and Rawls' neoliberal social contract allows for the neglect of entrenched inequalities. I argue that understanding the racialized underpinnings of one aspect of western political philosophy is one of many steps necessary to establishing a theoretical framework for government, social institutions, and the legal field that is not based on subordination.

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Process Analysis

For my senior honors thesis, I chose to do a research project regarding the racial implications of the three social contract theories that have contributed most prominently to western, liberal political thought. That is, I analyzed and explored the social contracts of John Locke, Jean Jaques Rousseau, and John Rawls. I argued that each contract creates a subordinating racial dynamic between white individuals and non-white individuals, while doing so in different ways and interacting with the emergent concept of race in differing manners. Throughout this project, I closely analyzed the relevant works by these three philosophers, drew upon critical race theorists, and interacted with objecting scholars.

I first had the idea for this project in my history of modern philosophy class. This class gave me the opportunity to do close readings of Locke and Rousseau and their respective social contract theories. As I read the *Second Treatise* and the *Discourse on the Origin of Inequality* and talked through them with my classmates, I came to the conclusion that both Locke and Rousseau had troubling ideas about non-Europeans and that their social contracts helped to perpetuate these ideas. I wrote my final research paper in this class on the racial implications of Locke's social contract, interacting somewhat with critical race theory by drawing upon the work of Charles Mills. I knew I wanted to do further research into the racialization of Locke's contract, in addition to other philosophers prominent in the tradition of western, liberal political thought.

I specifically chose this philosophical tradition because it is one that is often cited as providing a theoretical basis for the government, social institutions, and legal system of the United States. Regardless of whether the United States actually can be considered liberal, I believe that it is useful to explore and analyze the philosophical underpinning many have

claimed for the country. That way, divergences between theory and reality can be identified. This also makes it possible to determine whether this theoretical basis is even desirable.

Consequently, I decided to expand my focus from just Locke to also include Rousseau and Rawls. Each of these philosophers has provided some influence on American liberalism. Locke is often cited as an inspiration for the founders of American government, Rousseau's philosophy has sometimes been appropriated as a way for disadvantaged communities to navigate liberalism, and Rawls is credited with reviving American political thought and influencing many contemporary politicians and thinkers.

I began my research process by doing close readings of the relevant works of these philosophers: Locke's *Second Treatise*, Rousseau's *Discourse on the Origin of Inequality* and *Social Contract*, and Rawls' *A Theory of Justice*. I supplemented these readings with other works from these authors, such as Locke's *Fundamental Constitutions of the Carolinas* and portions of Rawls' *Political Liberalism*. While I read the works I would be analyzing, I also read existing scholarship regarding these works. This gave me the opportunity to read and enjoy the arguments of some leading contemporary philosophers, such as Bernard Boxhill, Tommie Shelby, and Naomi Zack.

I additionally familiarized myself with critical race theory and the philosophy of race. I read more of Charles Mills' writings in addition to works by Sylvia Wynter, Robert Bernasconi, Anika Maaza Mann, Emmanuel Chuckwudi Eze, and Naomi Zack. I found this portion of my research to be especially invaluable, as no classes on critical race theory were available to me before I began my thesis. I was mostly ignorant about this important branch of scholarship, and I most likely would have remained so had it not been for this project and for the assistance of my advisors.

My primary advisor, Dr. Vandiver, encouraged me to develop the methodological approach proposed by Quentin Skinner. This approach suggests that the best way to understand a text is to understand the context in which it was written, so that a text is considered neither in a vacuum nor as just a reworking of a previously conceived idea. Working with this methodology was the greatest learning curve for me—I had never consciously worked under *any* defined methodology, and I had no idea what additional research this would entail or how this would impact my argumentation.

I navigated my uncertainty through trial and error. The first draft of the first chapter on Locke was *bad*, but after gaining a better understanding of the types of research that would most benefit my project, I was able to improve both the structure and the content of my writing. I read several primary sources that were contemporary to each of the contractualists I was discussing so that I could better understand and establish why they may have thought the things that they did. To that end, I read John Smith’s travelog and Francis Bacon’s pseudo-anthropological analysis of all living beings to inform my writing about Locke. I read travelogs and more pseudo-anthropology from French explorers and missionaries to establish the context in which Rousseau wrote. Finally, I read contemporary discourse on the status of racial inequalities in the United States and drew upon my own conversations to describe the world in which Rawls wrote and is read.

While I enjoy hunting for pieces to historical puzzles, reading philosophy, and writing in general, there were many times when this process was exhausting. This thesis is roughly ninety pages and has taken about a year to write. There were times when I lacked the energy or the will to write, or times when I could not write well, or times when I was prevented from writing at all. I missed plenty of writing deadlines. I have worried about completing the project and producing

quality work. Yet this process has also been highly beneficial—I believe I have become a much stronger writer, researcher, and thinker because of this. While this process has not been easy, the knowledge and skills I have gained are beyond invaluable.

Introduction

In front of me sit three books. The first, an American geography textbook from the mid-1800s, is so tattered that I am afraid the cover will crumble when I open it. The second is a book on intellectual history I was supposed to read for a history class in high school, looking brand-new from lack of use. The final book is a loose-leaf textbook purporting to cover the history of the west in the world, left on my kitchen island by a friend who is considering using it in a class she teaches.

The geography textbook, *Mitchell's New School Geography*, was published just after the Civil War.¹ It is divided into sections on physical, political, and descriptive geography, accompanied by two hundred impressively-detailed engravings. "Political geography" is founded on the notion that there are distinct, separate races of people. The book identifies five— "the Caucasian, or White race; the Mongolian, or Yellow race; the African, or Black race; the Malay, or Brown race; and the American, or Red race."² The book then lists descriptions of each of the categorizations. The Caucasian race is considered to be "the most improved and intelligent of the human family, and seems capable of attaining the highest degree of progress and civilization."³ The Mongolian race is "patient and industrious, but limited in genius and slow in progress."⁴ The African race is "strong and active in body, but indolent in habit, and have not attained to any high degree of civilization."⁵ The Malay race is "fierce and revengeful in disposition, and have made but little progress in civilization." The American race is "tall and well formed, but revengeful and warlike. They are fast disappearing before the progress of white civilization."⁶

¹ S. Augustus Mitchell, *Mitchell's New School Geography* (Philadelphia: E. H. Butler & Co., 1868). I am grateful to my literature professor, Dr. Joyce Huff, for allowing me to access and photograph her original copy of this textbook.

² Mitchell, *Geography*, 32.

³ Mitchell, *Geography*, 33.

⁴ Mitchell, *Geography*, 33.

⁵ Mitchell, *Geography*, 34.

⁶ Mitchell, *Geography*, 34.

Many people today may look at these ideas and correctly identify them as racist. It should not be a surprise that there were racist thinkers in the 1800s, but surely that is a thing of the past. Mainstream, contemporary works of political thought and mainstream, contemporary educational materials don't support such abhorrent ideas. Right?

The second book, assigned for reading in my high school Advanced Placement European History class, is Charles Van Doren's *A History of Knowledge*—the cover touts it as a summary of “the pivotal events, people, and achievements of world history.”⁷ “World history” turns out to be overwhelming European—only the following non-European/non-European descended historical figures receive more than a page's worth of material: Avicenna, St. Augustine, Cleopatra, Confucius, Jesus Christ, Kublai Khan, and Shih Huang-ti.⁸ It is somewhat odd that a book covering significant ideas and knowledge, with a quarter of its pages dedicated to the 20th century alone, does not ever mention thinkers such as Gandhi or Martin Luther King.

The third book, *The Impact of Western Civilization on World History*, is a high school level textbook edited by a professor at my university. It is a “succinct outline of Western history and its affect [sic] on the world from the time of the ancient Greeks and Romans to the present.”⁹ The book contains two chapters on European expansion, entitled “An Explosion of Travel: The Fifteenth Century and Beyond” and “Building Empires 1830-1913.” Yet we find no more than a cursory, almost euphemistic acknowledgement of the race-based, chattel slavery that began to develop in the fifteenth century or the European imperialism that characterized the nineteenth century. Instead, the first mentioned chapter states that “European travel pushed out in new directions, and this soon involved travel—some voluntary, some forced—by people in other

⁷ Charles Van Doren, *A History of Knowledge*, New York: Ballantine Books, 1991.

⁸ Van Doren, *History of Knowledge*, 413-22.

⁹ *The Impact of Western Civilization on World History*, ed. Scott Parkinson (San Diego: Cognella Academic Publishing, 2015).

regions as well.”¹⁰ The chapter contains one additional mention of slavery¹¹ and one of imperialistic violence,¹² both presented as side effects of European exploration and curiosity. The second chapter, to its credit, briefly details the violent nature of imperialistic campaigns across Africa and the United States, and acknowledges that imperialism is “an attitude that increasingly drew on triumphalism, racialism and cultural arrogance.”¹³

It is the case that western thought, both in the past and in our present, is often racialized. From explicit racism to the exclusion of non-European voices to a gentle glossing-over of certain atrocities, racialized thought manifests itself in many different ways, in many different spheres. It is especially pernicious in political thought, particularly as the western tradition of liberalism promises equality, liberty, and dignity for all—yet has consistently failed to deliver this *for all*. Why is this the case? I argue that the prevailing social contract theories of Locke, Rousseau, and Rawls—all crucial contributions to liberalism—have contributed to a racialized political world view that explicitly or implicitly prioritizes and privileges whiteness, while simultaneously creating and enforcing the social construct of race.

Scholarly Context

For some time, large groups of mainstream political thinkers have turned a blind eye to the racial implications of many of the central concepts of modern, western political philosophy, including social contract theory. Previous editions of *Encyclopedia of Philosophy*, for example, have airily

¹⁰ Stephen S. Gosch and Peter N. Stearns, “An Explosion of Travel: The Fifteenth Century and Beyond,” in *The Impact of Western Civilization on World History*, ed. Scott Parkinson (San Diego: Cognella Academic Publishing, 2015) 134.

¹¹ Gosch and Stearns, “Explosion of Travel,” 141.

¹² Gosch and Stearns, “Explosion of Travel,” 142.

¹³ Jeremy Black, “Building Empires 1830-1913,” in *The Impact of Western Civilization on World History*, ed. Scott Parkinson (San Diego: Cognella Academic Publishing, 2015) 179.

glossed over Locke's defense of slavery by stating that it was but an "inconsistency," and that it "may mercifully be passed over."¹⁴

Notwithstanding, significant criticism and deconstruction of many canonical philosophers, liberalism, and the concept of race has emerged from critical race theory. Critical race theory developed in American law schools in the 1980s to address the systemic racial biases present in the American justice system. Critical race theorists and scholars of race may deconstruct the ideas of specific philosophers, as Charles Mills has done; they may address and criticize general concepts and structures, like Kimberlé Williams Crenshaw as done with the intersection of gender and race; they may also construct grand narratives to describe history, such as Sylvia Wynter has done. In general, many critical race theorists question whether or not liberalism and liberal institution can be severed from their white supremacy. All critical race theorists acknowledge that race is an arbitrary social construct, created to justify the dehumanizing treatment of people of color. I shall further describe and extend these ideas later in this work.

This thesis could not exist without the work of critical race theorists and other philosophers of race. Notwithstanding, it tackles a topic that has received relatively little focus: the racial implications of the social contract theories of Locke, Rousseau, and Rawls. While much has been said about how the rhetorical strategies of these philosophers impact race—by constructing it or ignoring it, for instance—there is not a great deal of scholarship regarding how the social contracts themselves shape the construct of race and perceptions of it. I believe Locke, Rousseau, and Rawls had racially problematic social contracts. This thesis will seek to uncover the different problems that arise from these social contracts, both on paper and in practice.

¹⁴ As cited in Jennifer Welchman's article "Locke on Slavery and Inalienable Rights." See Jennifer Welchman, "Locke on Slavery and Inalienable Rights," *Canadian Journal of Philosophy* 25, no. 1 (March 1995): 68.

Terms and Ideas

This project will address these issues. But first, we must establish the meanings of the terms on which this project will be built. Defining social contract theory is relatively simple. A social contract is an imaginary or actual agreement among people to form a civil society—a society with a government. Social contracts may include details about that government, especially regarding its relationship to the people of the society, and the obligations the government and the people have to each other.¹⁵ While the social contracts of Locke, Rousseau, and Rawls substantially differ, they all attempt to address these overarching issues and paint a picture of what an ideal state looks like. Further details about the specifics of these social contracts will be provided in the appropriate sections.

Describing race, racism, and related terms is a greater challenge, simply because these terms mean different things in different contexts and mean different things to different people. Is race based solely on the color of someone's skin, or is it a more abstract concept? Naomi Zack, a philosopher of race and historian of philosophy, writes, "The word 'race' is ambiguous, sometimes referring to skin color, other times to skin color and group history, sometimes to biology and genealogy, other times to culture by itself or culture combined with other factors."¹⁶ As previously mentioned, it has also been argued that race, as a concept, was invented to justify the dehumanizing treatment people of color, especially Indigenous Americans, African slaves, and their decedents, suffered at the hands of Europeans.

¹⁵ "Social Contract Theory," *Cambridge Dictionary of Philosophy*, ed. Robert Audi (Cambridge: Cambridge University Press, 2015) 998.

¹⁶ Naomi Zack, *The Ethics and Mores of Race: Equality after the History of Philosophy* (Lanham, MD: Rowman & Littlefield Publishers, 2011) xviii.

This links race to personhood. Emmanuel Chukwudi Eze, a post-colonial philosopher, pinpoints the invention of race as occurring during the Renaissance and Enlightenment, stating that the heightened economic, political, and cultural engagements Europe was a part of during this time necessitated a shift in Europe's idea of its place in the world, where ultimately "the conception of the African content as dark simultaneously made it possible for Europe to articulate its own spaces as enlightened."¹⁷ Thus race developed as a way for European states to identify themselves: non-European areas are savage, uncultured, and dark, whereas Europe is the opposite.

Chukwudi Eze and Charles Mills, a critical race theorist and political philosopher, agree that the idea of race developed as a method to separate and solidify European identity. Mills further expounds upon this idea by stating that this is the *real* contract—a "racial contract"¹⁸ where Europeans and their decedents either explicitly or tacitly agree to a system where they are privileged socially, economically, and politically above non-white, non-European individuals.¹⁹ A conceptualization of race developed as a result of this contract, at times tied to various aspects of society more than other aspects: "Europeans versus non-Europeans (geography), civilized versus wild/savage/barbarians (culture), Christians versus heathens (religion). But they all eventually coalesced into the *basic* opposition of white versus nonwhite."²⁰ Here, Mills' notion of the development of race aligns with Zack's multifaceted approach to defining what race is. I believe such a definition of race that acknowledges that non-European cultures, societies,

¹⁷ Emmanuel Chukwudi Eze, *Achieving Our Humanity: The Idea of the Postracial Future* (Abingdon-on-Thames, UK: Routledge, 2001) 17.

¹⁸ Mills' Racial Contract is inspired by Carole Pateman's Sexual Contract, which describes the conscious development of subordinating gender dynamics in the western world. In no way do I ever wish to imply that social contract theories, political thought, or western society in general are exclusively racialized or racist. That is to say, they are also exclusionary regarding gender, sexuality, ability, etc. These topics, however, are not the primary focus of this paper.

¹⁹ Charles Mills, *The Racial Contract* (Ithaca: Cornell University Press, 1999) 11.

²⁰ Mills, *Racial Contract*, 21.

governments, and regions have been tied to differences in skin color is an appropriate definition to use.

The writing of Sylvia Wynter, a critic and philosopher, can add further nuance to this definition. Wynter argues that race evolved alongside the concept of personhood, which was developed during the Renaissance and Enlightenment,²¹ as Chuckwudi Eze suggests. Yet when this concept of personhood developed during these eras in Europe, the concept involved the “descriptive/prescriptive statements of what it is to be human” to “reground its secularizing own on a newly projected human/subhuman distinction.”²² The creation of “person” thus demanded the creation of “non-person” or “sub-person.” These distinctions were justified by the development of race as an idea, as a method for grouping people into these categories. Wynter further demonstrates that these distinctions were “proven” through evolutionary theory.²³ Taking Wynter, Mills, Chuckwudi Eze, and Zack together, it is clear that the development of race as a concept was due to the desire of one group, here Europeans, to solidify their position over other groups, here everyone else. One could say that racism existed before race.

Yet when we speak of race in our day-to-day lives, we often do not consider the history of the concept. To state that someone is a different race than I am is to mean that their skin is a different color than mine—although this colloquial understanding of race is certainly insufficient, for a pale white woman would not be considered to be a different race from a tanned white woman, although they have different colors of skin. For this paper, then, I believe it will be useful to consider both a nuanced, modern understanding of race—a socially construed method of grouping people based off of not only their skin color, but also nationality, culture, society,

²¹ Sylvia Wynter, “Unsettling the Coloniality of Being/Power/Truth/Freedom: Towards the Human, After Man, Its Overrepresentation—An Argument, *CR: The New Centennial Review* 3, no. 3 (Fall 2003): 263.

²² Wynter, “Unsettling the Coloniality of Being,” 264.

²³ Wynter, “Unsettling the Coloniality of Being,” 273.

etc.—for each social contract, but also consider what race meant during the times in which each contract was written.

Racism, on the other hand, might be an even more nebulous term than race. Consider the questions that permeate public discourse. Can anyone be racist? Are there different types or degrees of racism? How can we know when something is racist? Is taking offense enough to qualify a statement or action as racist? How prevalent is systemic racism? It is not the purpose of this project to answer any of these questions in great detail—or at all—but an accessible working definition of racism must still be established. It may be useful to distinguish between individualized racism and institutional, or systemic racism.

Individualized racism may be loosely defined as individual beliefs that may manifest in actions regarding differences in people that are tied solely to their race—these are individual biases. Individualized racism is a person using a racial slur, or saying, “I’m not a racist, but—” and then proceeding to state a claim. The idea that former American president Barack Obama is secretly a Kenyan Muslim is a racist idea. (It also demonstrates how nationality and religion may be linked to race, as alluded to by Mills.) Believing that undocumented Mexican immigrants are primarily rapists and thieves is yet another example. Wanting to create an all-white ethno-state is also an instance of individualized racism. It should be noted that racial biases do not have to be openly expressed by a person for that person to have them—assuming that a person of a different race is a criminal is one other way racial biases may manifest themselves.

Institutional, or systemic racism is both a result of internalized, individualized racism and a structure that allows individualized racism to persist. Individual racial biases may explain why a judge will give different sentences to white defendants and black defendants, but systemic institutional racism explains the structures that allow the judge to do this in the first place.

William Julius Wilson writes that institutional racism is a system of inequality on racial lines that is “reinforced and directed by entrenched social norms, norms that define and prescribe subordinate positions for designated racial groups.”²⁴ Mills’ Racial Contract is a philosophical rendering of institutionalized racism, where society itself is structured to benefit one racial group over another; the members of the benefiting group *will* benefit, regardless of whether they consent to the system or are even aware of its existence. In the United States, the benefiting group consists of white Americans.

Systemic racism may be evidenced in the wage and wealth gaps between white Americans, black Americans, and Hispanic Americans. Systemic racism is also at play when during discussions about the wage gap between men and women, statistics for white women’s wages are used, whereas the gap between men and black women, or men and Hispanic women, is even larger. Systemic racism needn’t be on the national level, either. It may also manifest itself in a more specific manner. Over three-quarters of the members of the American Philosophical Association are white,²⁵ whereas only about 60% of Americans are white. Unequal representation in certain groups or exclusionary atmospheres are also examples of institutionalized, or systemic racism.

Methodology

I have now provided definitions for the crucial ideas of this piece, albeit some of these definitions are quite broad. The remainder of this introduction will be devoted to pinpointing where my project falls within the intersection between critical race studies and political

²⁴ As quoted in Chuckwudi Eze, *Achieving Our Humanity*, 168.

²⁵ “Demographic Statistics on APA Membership, FY2015 to FY2017,” American Philosophical Association. Accessed December 27, 2018.

philosophy, defining the methodological approach I shall use when exploring these concepts, and finally providing a road map for the rest of the paper.

Mills and Wynter have already defined overarching, holistic narratives for a racialized intellectual history, springing up out of an us-versus-them structure, where “us” refers to European societies, societies dominated by people with European roots, and to individual white people, and “them” refers to everything and everyone else. My work here will affirm the conclusions of Mills and Wynter, but will approach the same issues with a much more itemized focus. While I will reference Mills and Wynter at times in this paper, our projects should be seen as different. Instead of tracing the history and motives of racialized western thought, I will look specifically at the history and repercussions of the three social contracts that are most prevalent in the western liberal tradition, specifically in the United States.

Because I have narrowed my focus to western liberalism, especially within the United States, I will only be discussing the social contracts of Locke, Rousseau, and Rawls. While numerous other social contracts exist in western political thought, none are quite so influential to the development of western liberalism—a theory of statehood meant to promote freedom and equal personhood for all—as the social contracts I have identified. This is why this paper will not address other important political theorists such as Hobbes or Kant—analyzing their respectively authoritarian and universalist social contracts will illuminate few ideas about the western democratic, liberal tradition.

As I trace the ideas that I am arguing for, I will primarily use the methodological approach developed by Quentin Skinner. This approach considers both the author’s words and ideas and the context in which they were created, to better understand the dialogue that existed between the author and their cultural milieu. Skinner writes that

[T]o understand a text must be to understand both the intention to be understood, and the intention that this intention should be understood, which the text itself as an intended act of communication must at least have embodied...we therefore confront, in studying any given text, is what its author, in writing at the time he did write for the audience he intended to address, could in practice have been intending to communicate by the utterance of this given utterance.²⁶

To put it more simply, when analyzing and understanding the ideas put forth by Locke, Rousseau, and Rawls, we must ask the question: What is this thinker trying to add to the conversation that is happening around him? So, when exploring whether or not Locke's social contract provides justification for slavery, it is necessary to consider what "slavery" meant in Britain during the late 1600s, what other writers and thinkers were saying about slavery, what Locke himself said about slavery in other documents, and what Locke's motives were in writing the *Second Treatise*. This framework thus provides a comprehensive view of not only the content of a text, but also the author's motivations in creating it, as well as whether it affirms or denies the prevailing ideas of the era in which it was written.

Skinner's method of understanding historical texts and ideas of course is not the only approach one may take. A purely textualist approach (or "perennialism," as Skinner calls it) would look only at the world in which the thinker expressed their ideas. Skinner criticizes this approach on the grounds that it traps historians of thought in a mindset that few unique and new ideas are developed, as a "historian of ideas will unavoidably be set, in approaching any given writer, by some sense of the defining characteristics of the discipline to which the given writer may be said to have contributed."²⁷ If we believe that the defining characteristics of a discipline are generally the same throughout history, then we may say that the contributions to a discipline will also be quite similar throughout history. Reiterating the same ideas and analyzing these

²⁶ Quentin Skinner, "Meaning and Understanding in the History of Ideas," *History and Theory* 8, no. 1 (1969): 48-9.

²⁷ Skinner, "Meaning and Understanding," 22.

ideas over and over is not a very profitable endeavor, and so Skinner's approach is preferable to a perennialistic method.

There is also the possibility that I should look solely at the texts themselves as I proceed through this project. But this is once again problematic. Skinner points out that when this happens, "We engage rather in an often intolerable wrestle with words and their meanings."²⁸ Instead of truly considering what ideas mean, we must first instead establish what their parts mean—what words mean, but without the benefit of looking to other texts from the time period for guidance. This, says Skinner, results in historians, especially philosophical historians, writing "historical nonsense."²⁹ Even if one can avoid these pitfalls of this approach, Skinner still does not believe that it is an advisable method to use. He writes, "The methodology remains incapable in principle of considering or even recognizing some of the most crucial problems which must arise in any attempt to understand the relations between what a given writer may have said, and what he may be said to have meant by saying what he said."³⁰ Exploring a text *only* by exploring the text leaves out critical information to actually develop a thorough understanding of what an author intended to do. As Skinner's methodology does not pose this issue, it is once again preferable. For these reasons, I will primarily be approaching the issue of social contracts and race from this methodological perspective.

Notwithstanding, Skinner's methodology does have its limits, as any methodological approach will have. For instance, ideas are often misinterpreted or misapplied. Skinner acknowledges this as "perlocutionary uptake." If a philosophical concept is misunderstood or misapplied, this should not necessarily be blamed on the author or creator of that concept. Yet, it

²⁸ Skinner, "Meaning and Understanding," 30.

²⁹ Skinner, "Meaning and Understanding," 31.

³⁰ Skinner, "Meaning and Understanding," 31.

is also necessary to at least give a cursory glance at the impacts a work has, especially if harm occurred from interpreting a work in a certain way. While the probable, intended meaning of the author is highly important, it should be evaluated alongside some of the impacts the work had to fully contextualize the work as a whole. Consequently, there will be times throughout this piece where I depart from Skinner. I shall indicate when I do so.

Finally—some concerns. I am a white woman using a methodology developed by a white man to analyze and describe the racialized dynamics created by three philosophers. I will never be able to experience the subordination these dynamics create, and thus I will never fully understand it. Moreover, I am writing in a time and place where the power structures created and perpetuated by the social contractualists I discuss remain. While I have (I think I have—I hope I have) progressive motives, I am still benefited by this structure. I am not sure that I am the best mouthpiece for the arguments presented here. There is an additional problem even with the language I use—Wynter describes the development of language as something “to ensure that we continue to know our present order of social reality, and rigorously so, in the adaptive ‘truth-for’ terms needed to conserve our present descriptive statement.”³¹ In other words, language has so developed that it makes it impossible for us to ever fully break free of existing structures that perpetuate racism. I am not sure how to fix this. Consequently, I expect that there will be things that I am incorrect about over the course of this paper. I welcome any and all criticisms of the arguments and ideas presented here.

In each chapter of this thesis, I will first describe the context in which the respective authors were writing. I will then outline the respective social contract and explore the racial

³¹ Wynter, “Unsettling the Coloniality of Being,” 270.

implications of that contract. I will consider objections to and qualifications of my arguments, while examining pieces of evidence contemporary to the creations of each contract to demonstrate that a racialized understanding of these ideas is correct. I will finally draw parallels between the racial implications of each contract and modern issues relating to race.

In the first chapter, I shall discuss Locke's contract, paying special attention to his views on personhood, property and labor. I will argue that his contract supports the colonization of the Americas and chattel slavery. I will consider arguments regarding Locke's belief that all people were created equal and that his ideas are not strong enough to be considered imperialist. I will refer to another one of Locke's works, the *Fundamental Constitutions of Carolinas*, to further contextualize his writing.

The second chapter analyzes Rousseau. I will reconstruct Rousseau's social contract, highlighting his beliefs regarding personhood, rationality, and physical environment. I will conclude that Rousseau's social contract is exclusionary based on rationality and national origin, which are implicitly linked to race. I shall take into account various objections that state that Rousseau could not have been racist as he advocated against slavery and colonialism, or that his contract actually offers liberating tendencies.

The final chapter regards Rawls. In this chapter, I will begin by defining Rawls' social contract, describing the logical implications of the original position and the two principles of justice he develops. I will argue that while Rawls does not approve of racism, his contract still allows for it on both individual and systemic levels and thus cannot be a comprehensive view of justice, as there is no mechanism for mitigating these issues. I will evaluate Rawls' contract through the applicability that some have claimed for it, and as an ideal theory, as Rawls intended it to be understood.

Ultimately, I argue that the social contracts of Locke, Rousseau, and Rawls in differing ways and degrees fulfill the aforementioned definition of racist; I will proceed by exploring each social contract individually, and identifying cultural trends and ideas prevalent in both the societies in which the contracts were formed and in contemporary American society that illustrate the repercussions of the racialized aspects of each social contract.

Locke on America and Locke in America

In his survey of “world” knowledge, popular historian Charles Van Doren states that John Locke’s writings on property in the *Second Treatise of Government* are “powerful, and they make any discourse serious and weighty.”³² Apart from the meaning Van Doren finds in Locke’s writing itself, he also argues that without Locke, the United States would have lacked theoretical support for revolution against Britain.³³ Van Doren extends this even further by suggesting that the American victory against the British “confirmed the rightness of the English-Lockean political doctrine.”³⁴ Van Doren further argues that no convincing argument has been levied against Locke’s social contract.³⁵ Thus, the United States is indebted to Locke for its existence, and Locke is indebted to the United States for proving that his infallible ideas regarding government are just and moral.

It is a common idea that Locke’s philosophy, especially his social contract, helped form American government. Mark Griffith, a professor of political science, argues that Locke “profoundly affected the principles upon which the government of the United States was founded...Locke presents his case for what we would call modern liberal democracy. He created the modern emphasis on constitutionalism that defines, in part, the relationship between the political system and the bureaucracy.”³⁶ Locke, like the other social contract theorists to be discussed, has profoundly shaped American government, political thought, and western political trends in general—at the very least, he is *believed* to be a large influence on American political thought and government.

³² Charles Van Doren, *History of Knowledge* (New York: Ballantine Books, 1991) 223.

³³ Van Doren, *Knowledge*, 224-26.

³⁴ Van Doren, *Knowledge*, 226.

³⁵ Van Doren, *Knowledge*, 226.

³⁶ Mark F. Griffith, “John Locke’s Influence on American Government and Public Administration,” *Journal of Management History* 3, no. 3 (1997) Emerald Insight.

Jeremy Waldron likewise argues that Locke's philosophy is egalitarian, and consequently has influenced the egalitarian aspects of American government and law. Waldron argues that Lockean equality as expressed in the *Second Treatise* has a profound basis, as Locke argues that the origin of equality is God.³⁷ This is supported by passages where Locke describes equality as God-given and inherent to the state of nature; he states that people are, by nature, equal, created that way by God.³⁸ He also writes, "there cannot be supposed any subordination among us."³⁹ Moreover, the state of nature is one of perfect equality.⁴⁰ Looking at these passages in light of the knowledge that Locke was influential on American political thought and ideals, one may believe that Locke is responsible for inspiring some of the more noble values claimed by American government.

Yet this is deeply troubling, because Locke's social contract is both exclusionary and subordinating based on the emerging concept of race; it excludes those who violate the laws of nature from rationality and personhood, thus allowing for their subordination and the appropriation of their resources. It is certainly not egalitarian. Scholars such as Charles Mills, Naomi Zack, Robert Bernasconi, and Anika Maaza Mann have contributed much to the scholarship surrounding Locke's racialized philosophy. Their arguments focus primarily on Locke's construct of labor and personhood, and how laboring in an unsatisfactory manner excludes one from personhood. I shall draw upon these arguments and extend them with an analysis of Locke's entire social contract; while Locke's conceptualization of labor is the foundation for his social contract, it is not its totality. I shall ultimately argue that Locke's social

³⁷ Jeremy Waldron, *God, Locke, and Equality: Christian Foundations of John Locke's Political Thought* (Cambridge: Cambridge University Press, 2002).

³⁸ Locke, *Two Treatises*, 270.

³⁹ Locke, *Two Treatises*, 271.

⁴⁰ Locke, *Two Treatises*, 270.

contract demands colonialism, as it is one of the responses implied by Locke as a solution to an unjust government. Additionally, I shall explore the ambiguities of Chapter Four of the *Second Treatise*, which addresses slavery. While many scholars agree that Locke supported chattel slavery, this conclusion is often drawn by looking at Locke's life and his involvement in the slave trade. I wish to demonstrate that Locke's writing itself can support racialized chattel slavery, particularly when Locke's social contract is combined with his just war theory.

In this section, I will present textual context regarding Locke's time period and intellectual climate. I will reconstruct Locke's social contract and argue that it supports colonialism. I shall summarize Locke's just war theory and argue that, combined with his social contract, his philosophy supports racialized slavery. I also seek to consider objections to this overall line of argumentation. Some contest that Locke supports egalitarianism, and thus he could not have truly supported colonialism or slavery. Others contend that Locke does not support imperialistic conquest. Ultimately, I wish to demonstrate that Locke's contract creates a racialized world, which is a significant cause for concern for all those who are committed to fairness and equality in American laws and government, considering that it offers a theoretical underpinning for American government and political thought.

Artifacts

To understand the context in which Locke was writing, and why a man who never traveled to the Americas may have held the ideas he did about America, I here present two texts from his time period that may offer clues to the cultural milieu Locke existed in, perhaps offering explanations for his thought. The first is John Smith's travel log, recounting the time he spent in the British colony of Jamestown. The second is pseudo-anthropological, an account of natural history from

Francis Bacon. Per Skinner, I will not argue that Locke was directly and meaningfully influenced by any of these texts, but rather I introduce them in order to establish the climate in which Locke was writing, and to describe some ideas that he was most likely aware of.

In 1608, roughly eighty years before John Locke wrote his *Second Treatise on Government*, John Smith returned to Britain from the English colony at Jamestown and published a description of various events that had occurred at the colony. Smith paid particular attention to the relationship between the colony and the indigenous tribes who lived in the area, and much of his travel log recounts his various attempts to trade with indigenous people. In this account, Smith is just as likely to describe indigenous tribes as “extremely kinde” and as “churlish and trecherous.”⁴¹ He praises the chief of the Powhatan people for having a “grave and Majesticall countenance,” although Smith’s expectations were apparently low, as he quickly states that he was in awe “to see such state in a naked Salvage.”⁴²

While remaining tonally consistent, Smith fluctuates between implicitly praising and criticizing indigenous tribes, often comparing them to English society to determine what is praiseworthy or blameworthy. He writes of Powhatan burial rights: “Their Kings they burie betwixt two mattes within their houses, with all his beads, jewels, hatchets, and copper: the other in graves like ours. They acknowledge no resurrection.”⁴³ While Smith describes the intricacies of indigenous societies and towns, he implies that they are still lacking in comparison to those of Europe, for “in these plaines are planted abundance of houses and people; they may containe

⁴¹ John Smith, *A True Relation of Such Occurrences and Accidents of Note as Hath Hapned in Virginia Since the First Planting of that Colony, which is now resident in the South part thereof, till the last returne from thence* (London: John Tapp, 1608).

⁴² Smith, “True Relation.”

⁴³ Smith, “True Relation.”

1000 Acres of most excellent fertill ground...so strong a prospect, for an invincible strong City, with so many commodities, that I know as yet I have not seene.”⁴⁴

The implication, of course, is that Indigenous Americans have constructed an impressive civilization *for them*, but that they have not utilized all of the rich natural resources surrounding them. Someone else (England) could do truly spectacular things with those resources. This idea is bolstered by Smith’s concluding statement, where his desire is “in after times to see our Nation to enjoy a Country, not onely exceeding pleasant habitation, but also very profitable for comerce in generall; no doubt pleasing to almightie God, honourable to our gracious Sovereigne, and commodious generally to the whole Kingdome.”⁴⁵ Smith offers no suggestions for if or how English colonists and Indigenous Americans should live together, although he does state that conversion of different tribes to Christianity is essential. While there is no evidence to suggest to what extent Locke was influence by Smith’s ideas, it is very likely that he was at least aware of the basic contents of Smith’s writings. The descriptions Smith presents, as well as his overall argument regarding the utilization of resources, align with the arguments Locke presents in the *Second Treatise* regarding the richness of the Americas, as well as the insufficient use of resources by Indigenous Americans.

The second piece we shall consider here is Francis Bacon’s work on natural history, *Sylva Sylvarum*. Bacon catalogues different pieces of the natural world, from plants to animals to rocks, in an effort to describe the history of the world. Invariably, he discusses human history. He writes, “So marvel you not at the thin Population of *America*, nor at the Rudeness and Ignorance of the People; for you must account your Inhabitants of *America* as a young People, younger a thousand years at the least than the rest of the World, for that there was so much time

⁴⁴ Smith, “True Relation.”

⁴⁵ Smith, “True Relation.”

between the Universal Flood, and their particular Inundation.”⁴⁶ We see that Bacon considers different groups of people to be at different developmental stages, with those who live in the Americas to be the least-developed and civilized group of people.

Bacon continues to separate Indigenous Americans from all other people by argue that “being a simple and savage people (not like *Noah* and his Sons, which was the chief Family of the Earth) they were not able to leave Letters, Arts, and Civility to their Posterity.”⁴⁷ With this statement, Bacon excludes Indigenous Americans from the Judeo-Christian tradition. Moreover, he strongly implies that markers of civilization—letters, arts, and civility—are not developed in Indigenous Americans, and *cannot* be developed solely by Indigenous Americans.

Here, we see a beginning of racialized thought. While Bacon does not draw arbitrary distinctions between groups of people based on a few physical characteristics, he does distinguish an Other in three immutable ways—age as a group of people, descent, and religious background. Because Indigenous Americans are, allegedly, an undeveloped and relatively new group of people, they lack civilization and are not European. Because they are not descended from the survivors of the Biblical flood, they do not share a common ancestor with the rest of humanity. Because they lack this common ancestor, they are neither Christian nor civilized—not European. These are the beginnings of racialized thought, which we may consider proto-racist, similar to what we shall see in Locke’s writing.

⁴⁶ Francis Bacon, *Sylva Sylvarum: or, A Natural History, in Ten Centuries* (London: J.R., 1670) Hathi Trust, 14.

⁴⁷ Bacon, *Sylva Sylvarum*, 14.

Locke's Social Contract

We may now turn to Locke's social contract itself. In particular, it is important to understand his concepts of labor and property, as his social contract is based on his understandings of these ideas.

Labor is an action that appropriates resources from the state of nature, or otherwise improves resources; property is created by the appropriation of resources by use of one's labor. Labor takes from the state of nature and improves the resources that were appropriated—a tree is labored upon when it is cut down and turned into boards, and those boards are labored upon when they are turned into a chair. Labor is also what creates property, specifically private property, as we already own our labor. Naomi Zack makes the distinction that private property may exist “not on the grounds that people deserve to own what they have labored to produce but on the grounds that they already own their labor.”⁴⁸ Thus, private property is created when one appropriates or infuses resources with one's labor. After I have turned the tree into boards, the boards are my property and are more valuable than the tree, because I have infused them with my labor. You may purchase the boards from me to turn them into a chair, which is then your property and is more valuable than the boards, because it has been infused with additional labor. Consequently, labor—improving resources—is necessary for private property. If there is no improvement or appropriation of resources, there is no private property. Likewise, if there is no private property, then no one must have labored, as labor is necessary for private property to exist, and labor always appropriates.

We may now move on to reconstructing Locke's social contract, the first part of which is based on his ideas surrounding labor and property. This reconstruction will also begin to reveal

⁴⁸ Naomi Zack, “Locke's Identity Meaning of Ownership,” *The Locke Newsletter* 25, no. 23 (1992): 108.

the extent to which the contract is predicated on racially exclusionary notions of property, ownership, and personhood. As previously mentioned, private property is created by the appropriation of resources by use of one's labor. Locke argues that God has given the world for people to use.⁴⁹ God has commanded people to utilize the resources provided, and thus not appropriating from nature would be disobeying the will of God. He also commanded people to labor.⁵⁰ Therefore, not laboring is also disobeying the will of God, and presumably the laws of nature, as God has created the natural order and the laws governing it. Following Hooke's logic, this would also violate the laws of nature. If people are built to labor and they do not, they are not fulfilling their most basic function.

People may—and should—be punished if they violate the laws of nature.⁵¹ Since exercising one's labor and appropriating resources are, then, laws of nature as ordained by God, not doing so makes one liable to punishment. Locke states that those who violate the laws of nature renounce their status as humans, and become “wild savage beasts.”⁵² Additionally, the person who was violated because of the breakage of a law of nature “has this power of appropriating to himself the goods or service of the offender, by right of self-preservation.”⁵³ Therefore, if all people Locke considers to be civilized are wronged by the fact that those who are considered to be uncivilized are not properly exercising their labor, then the civilized may respond in kind to the uncivilized, who have lost some of their status as persons as they have violated the laws of nature.

⁴⁹ John Locke, *Two Treatises of Government*, ed. Peter Laslett (Cambridge: Cambridge University Press, 2017) 271.

⁵⁰ Locke, *Two Treatises*, 286.

⁵¹ Locke, *Two Treatises*, 275.

⁵² Locke, *Two Treatises*, 274.

⁵³ Locke, *Two Treatises*, 274.

The second portion of Locke's social contract regards what a just government looks like, and how people interact with their governments. A just government is formed at the consent of the governed.⁵⁴ People first form governments in order to protect their basic freedoms, especially their property, from other people.⁵⁵ Consequently, a just government will protect those basic freedoms, including property. Because of this, civilization will be marked by laws protecting private property. As the government is just at the consent of the governed, continual consent, whether it be tacit or voluntary, is necessary.⁵⁶ If the individual does not wish to consent to the government they find themselves under, they may either change that government, or establish a new government somewhere else. Locke writes that an individual may move to a different country, or "agree with others to begin a new one, in vacuis locis [empty places], in any part of the world, they can find free and unpossessed."⁵⁷ This is a "safety valve" offers a reprieve for Locke's broad reading of consenting to a government. One does not have to rebel against a government they consider unjust; instead, they may join or form a new state.

In short, Locke's social contract states that persons obey the laws of nature, one of which is to appropriate resources with one's labor, thus creating private property. Government is formed at the consent of the governed, and is created in part to protect people's right to their property. People may change their governments or move elsewhere to form new ones. These premises ultimately underscore a racially exclusionary contract that supports the colonization of the Americas, European imperialism, and race-based chattel slavery.

⁵⁴ Locke, *Two Treatises*, 276.

⁵⁵ Locke, *Two Treatises*, 329-31.

⁵⁶ Locke, *Two Treatises*, 302.

⁵⁷ Locke, *Two Treatises*, 349.

Locke and American Colonialism

Let us now return to the first portion of the contract regarding labor and property. At multiple times, Locke states that the Americas have been left to nature, as he does not believe that Indigenous Americans appropriate from the land or make proper use of their resources. Locke writes that the Americas lack the “improvements” that characterize European civilization.⁵⁸ This is specifically because the Americas, while rich in natural resources, have not been improved by labor:

There cannot be a clearer demonstration of any thing, than several Nations of the Americas are of this, who are rich in Land and poor in all the Comforts of Life; whom Nature having furnished as liberally as any other people, with the materials of Plenty, i.e. a fruitful Soil, apt to produce in abundance, what might serve for food, raiment, and delight; yet for want of improving it by labour, have not one hundredth part of the Conveniences we enjoy.⁵⁹

Locke further goes on to argue that it is the lack of labor and improvements that makes America (and its inhabitants) so uncivilized and brutish.⁶⁰ The notion that non-Europeans are not properly making use of their labor and their resources, as God has supposedly commanded them to do, is a critical issue for Locke. By violating the laws of nature by not properly laboring, Indigenous Americans forfeit their personhood, so long as they do not appropriate with their labor. Mills writes that this ultimately means that “whiteness itself becomes property, nonwhites do not fully, or at all, own themselves, and nonwhite labor does not appropriate nature.”⁶¹ For Locke, Indigenous labor does not appropriate from the state of nature.

As Locke implies in his social contract, those who violate the laws of nature—those he calls “wild and savage beasts,” those who are now excluded from personhood—ought to be

⁵⁸ Locke, *Two Treatises*, 294.

⁵⁹ Locke, *Two Treatises*, 296-97.

⁶⁰ Locke, *Two Treatises*, 297.

⁶¹ Charles Mills, *The Racial Contract* (Ithaca: Cornell University Press, 1999) 96.

punished by those who do not, those who labor. Those who commit violations of laws of nature must not be punished unfairly, however, for the response must be equal to the original violation.⁶² Locke never advocates for the genocide of Indigenous Americans that eventually occurred, but we see that he still advocates for some sort of response to their supposed lack of labor and appropriation. Locke writes that the person who was violated because of the breakage of a law of nature “has this power of appropriating to himself the goods or service of the offender, by right of self-preservation.”⁶³ The response is that European colonists have the right to utilize the resources that other, seemingly uncivilized peoples aren’t using. Thus, a civilized (European) individual will not kill individuals who are not appropriating from nature, provided those people haven’t made any attempts on the individual’s life. The individual instead just ought to appropriate their resources and their labor, as they aren’t making satisfactory use of them.

We have already established that Locke thinks that Indigenous Americans generally lack labor, property, and civilization. This makes the Americas the perfect location for new governments to be established. Regarding those who, discontent with their current governments, wish to establish a new one, Locke very specifically states, “Let him plant some in-land, vacant places of America.”⁶⁴ This is justified because in Locke’s view, the Americas are basically empty places, teeming with unappropriated resources, all there for taking by Europeans, who will no doubt improve them. Mills points out that the empty spaces that Locke describes as ripe for settlement are, obviously, not empty, but are rather filled with “‘human beasts,’ who are an obstacle to development, rather than capable of development themselves, and whose

⁶² Locke, *Two Treatises*, 275.

⁶³ Locke, *Two Treatises*, 274.

⁶⁴ Locke, *Two Treatises*, 293.

extermination or at least clearing away is a prerequisite for civilization.”⁶⁵ In a similar vein,

Locke continues:

Yet there are still great tracts of ground to be found, which (the inhabitants thereof not having joined with the rest of mankind in the consent of the use of their common money) lie waste, and are more than the people who dwell on it do, or can make use of, or so still lie in common.⁶⁶

Here we see Locke’s response to the fact that there are already people living on these swaths of seemingly unappropriated land. Being uncivilized, they have lost some of their rights to land and the resources of the Americas. This conclusion ultimately justifies the colonialism of the Americas, as well as European imperialism in general.

Yet Locke also speaks of equality, stating, “In the beginning all the world was America.”⁶⁷ How could colonizing the Americas be justified if everyone came from the same state of nature? Considering all that has been previously said about Locke’s views on non-Europeans, it is evident that he does not view people as currently equal. This is easily reconciled with what is explicitly said about equality in the *Second Treatise*. All people may have started as equals, but this does not mean that people and societies will necessarily end up as equals. In the beginning, there was no difference between Europeans and Indigenous Americans, or Europeans and Africans, but in Locke’s view, this is clearly no longer the case. Therefore, the idea that all people were created equal is amended by the understanding that for Locke, all people are *no longer* equal. Even if we accept the idea that Locke wished for all people contemporary to him to be treated as equals, his prioritization of the rights of Europeans over non-Europeans shows that non-Europeans lack the full personhood that he assigns to Europeans. Indigenous Americans, Africans, and other non-Europeans could only justifiably be considered the equals of Europeans

⁶⁵ Mills, *Racial Contract*, 49.

⁶⁶ Locke, *Two Treatises*, 299.

⁶⁷ Locke, *Two Treatises*, 301.

once they themselves had been Europeanized. Consequently, Locke's egalitarianism only applies to the time when all people were in the state of nature, or to contemporary Europeans and any non-Europeans whose "otherness" has been sufficiently erased. For Locke, in the beginning the whole world might have been America, but Locke has broken up *his* world into America and Europe.

We have now established how Locke's social contract can support colonialism. I argue that it *must* support colonialism. Locke's social contract simply does not work if there is no outlet for people to escape unjust governments by setting up their own governments—otherwise, we would find ourselves in the logically indefensible position of people being forced by circumstance to tacitly consent to their possibly unjust governments. There must be some sort of safety valve for people to escape unjust governments.

The safety valve proposed by Locke is colonization in the Americas—the "empty" places. His justification comes from the belief that people currently living in the Americas lack civilization and are actually in violation of natural law, as they utilize neither their labor nor their resources. Locke's social contract supports the idea that the rights of a seemingly civilized, European individual ought to be prioritized over the rights of seemingly uncivilized, non-European individual. A non-European's personhood is consequently more suspect and less valuable than the personhood of a civilized European. Because of this, Europeans actually have the *responsibility* to establish justice, civilization, and property in the Americas—and presumably other "empty" areas around the world, ultimately creating an imperialist mindset. Thus, Locke's social contract is irrevocably tied to racism, colonialism, and imperialism.

Locke and Slavery

Yet this isn't all Locke's social contract can justify—it also serves to justify the race-based form of chattel slavery that was just emerging as Locke wrote the *Second Treatise*—and which he profited off of and helped to develop. Locke devotes a single, somewhat cryptic chapter to slavery—slavery is only lawful, but only in certain circumstances, which are not clarified until Locke's more illuminating chapter regarding conquest. Locke later writes in the *Second Treatise* on just and unjust wars. From these sections, we may discern the following.

Locke states that if a person forfeits their life “by some act that deserves death”—i.e. harming another, violating another's property rights, violating a law of nature, etc.—then the person to whom the life was forfeited may “delay to take it, and make use of him to his own service.”⁶⁸ In other words, if a violation of a law of nature is committed, the person who committed the violation may be punished not always by death, but by some form of servitude. This is permissible because a violation of a law of nature is an act of war, according to Locke, and those who commit such violations, putting themselves and others into a state of war, “are not under the ties of the common law of reason...and so may be treated as beasts of prey.”⁶⁹ Here again, Locke mentions that those who have broken a law of nature—whether this be by violence or by not appropriating property—have forfeited their personhood. He states that since to violate the laws of nature demonstrates that the actor lacks reason, they may be treated as an animal.

Notwithstanding, Locke also says that one may not “enslave himself to any one.”⁷⁰ This would seem to imply that Locke does not approve of slavery. But this statement is reflexive—one may not enslave themselves to another, but Locke does not state that one may not enslave

⁶⁸ Locke, *Two Treatises*, 284.

⁶⁹ Locke, *Two Treatises*, 279.

⁷⁰ Locke, *Two Treatises*, 284.

another. In fact, considering the previously mentioned statements, it seems that Locke does in fact believe that slavery may be permissible under certain circumstances, specifically when a law of nature has been violated—the violator may be enslaved instead of executed, and the fact that they have established themselves as lacking in rationality, and thus personhood, adds further justification to their status as a slave.

Locke further expands upon these points when he describes just and unjust wars. In an unjust war, enslaving conquered people would not be permissible, as the war itself was unjust, and thus, “the aggressor...can, by such an unjust war, never come to have a right over the conquered.”⁷¹ Yet this is not the case for a just war, which occurs when a violation of a law of nature is being punished—this may occur if one group unjustly attacks another, as it would be just for the second group to defend itself. This may also occur if the most basic law of nature—that one should labor—is violated. When a just war ends, the power of a lawful conqueror over the lawfully conquered is “perfectly despotical” with “absolute power over the lives of those, who by an unjust war have forfeited them.”⁷² Thus an extreme reaction to aggressors in a just war, such as slavery, would be entirely fine, according to Locke.

It thus seems clear that Locke believes that slavery is justified under certain circumstances. Does race-based, chattel slavery fall under the circumstances Locke specifies? In the *Second Treatise*, Locke does not write as explicitly on his beliefs regarding labor and appropriation by Africans as he does regarding labor and appropriation by Indigenous Americans. In the previous section, it was established that for Locke, non-white labor, especially Indigenous labor, does not appropriate from the state of nature. It is likely that Locke would have

⁷¹ Locke, *Two Treatises*, 385.

⁷² Locke, *Two Treatises*, 387.

viewed the people living on the African continent as living in a state of nature without properly appropriating from it. Jennifer Welchman writes:

Sub-Saharan Africa was, by Locke's standards, a State of Nature. Its peoples lived as did the native peoples of North America, in extended family groups, obtaining their livelihoods through hunting, fishing, and gathering, or through primitive forms of agriculture on largely unimproved, usually unenclosed land.⁷³

Those who do not appropriate from the state of nature are violating one of the most fundamental laws of nature—that all persons labor. When we couple these pieces of Locke's social contract with the statements made in the chapters on war, conquest, and slavery, we see that when a law of nature is violated, the violators have created a state of war. Thus, by not appropriating, individuals revoke their personhood and place themselves in a state of war. Because of this, all who do not appropriate could justifiably be enslaved. If non-white labor does not appropriate, all non-white individuals could be enslaved.

Consequently, race-based slavery would be permissible when we consider Locke's social contract and his comments on slavery and just wars. But the chattel slavery that was developing at the time Locke author the *Second Treatise* was also hereditary—the children of an enslaved woman would also be enslaved. Locke seems to denounce hereditary slavery. He writes that those who justly conquer and justly enslave have no right over the property of the conquered, or “the innocent wife and children.”⁷⁴ Thus, the children of enslaved individuals are cannot be enslaved just because their parent is. This is contradictory to the hereditary enslavement of Africans and their decedents.

We may consider this to be true—that Locke's social contract can justify race-based slavery that isn't hereditary—or that hereditary slavery is still an option under Locke's social

⁷³ Jennifer Welchman, “Locke on Slavery and Inalienable Rights,” *Canadian Journal of Philosophy* 25, no. 1 (March 1995): 78.

⁷⁴ Locke, *Two Treatises*, 390.

contract. Robert Bernasconi and Anika Maaza Mann believe that Locke's statements on hereditary slavery ultimately cannot be reconciled with the form of slavery that did develop, and which Locke profited from and helped create; instead, there is simply a gap between his writing and his life.⁷⁵

I am not certain that such a contradiction exists, or that Locke's comments on hereditary slavery ultimately apply to race-based chattel slavery, in light of his views on labor and appropriation. If non-white, here African, labor does not appropriate or improve upon resources already taken from the state of nature, then slavery is permissible, and Europeans will make use of the labor they do not believe Africans are properly using. Children born into slavery will not automatically be enslaved, but if Mills' idea that non-white labor *never* appropriates is correct, then the children of slaves will not appropriate either. They cannot appropriate, not because they are born into slavery, but because they are not white. Consequently, Locke's statements regarding hereditary slavery do not even seem to apply to the enslavement of non-white, non-appropriating individuals.

Some may think that this argument does not prove that Locke intended to provide a defense of hereditary slavery. This may be the case—as mentioned in the introduction, it is difficult to know an author's full intention. Yet it should be noted that this argument was still used throughout the seventeenth and eighteenth centuries to justify the form of race-based, chattel slavery that developed.⁷⁶ We can also be certain that Locke did in fact profit off of chattel slavery and helped shaped the emerging institution of race-based slavery to take the form that it did. Locke benefited from the slave trade, as one of the early investors in the first slave trading

⁷⁵ Robert Bernasconi and Anika Maaza Mann, "The Contradictions of Racism: Locke, Slavery, and the *Two Treatises*," in *Race and Racism in Modern Philosophy*, ed. Andrew Valls (Ithaca: Cornell University Press, 2005) 89-107.

⁷⁶ Bernasconi and Maaza Mann, "Contradictions of Racism," 100.

companies.⁷⁷ Locke was one of the first investors in the Royal Africa Company, which provided slaves for British colonies; he was also one of the first investors in the Merchant Adventurers, a company dedicated to trading slaves with the Bahamas, and which was partially sponsored by his patron, the Earl of Shaftesbury.⁷⁸

Not only did Lock invest in and profit off of the slave trade, he also helped shape the institution of chattel slavery. In his “Instructions to Governor Nicolson of Virginia” Locke stated that Governor Nicolson should “regard negro slaves as justifiably enslaved because they were captives taken in a just war.”⁷⁹ While the argument from just war does not necessarily provide adequate justification for hereditary slavery, it was evidently enough for Locke. Moreover, Locke most likely played a critical role in encoding slavery in *The Fundamental Constitutions of Carolina*. There is a good amount of evidence—handwriting, word choice, previously written documents in a similar vein—that Locke helped write or revise some parts of the document, especially those parts regarding slavery.⁸⁰ The *Constitutions* state, “Every freeman of Carolina shall have absolute power and authority over his negro slaves, of what opinion or religion soever.”⁸¹ This total power—entirely in line with the “perfectly despotic” relationship Locke describes as existing between the lawful conqueror and the lawfully conquered—was not necessarily precedented. Bernasconi and Maaza Mann write:

Because Locke was writing at a time when the form of slavery to be adopted by the new colonies had not yet been settled, his proposals in *The Fundamental Constitutions of Carolina* and elsewhere must be understood, not as a reflection of established norms about how slaves should be treated, but as playing a role in establishing those norms.⁸²

⁷⁷ Bernasconi and Maaza Mann, “Contradictions of Racism,” 89.

⁷⁸ Welchman, “Locke on Slavery,” 73.

⁷⁹ As cited in footnote for § 24 in Locke, *Two Treatises*, 284.

⁸⁰ Bernasconi and Maaza Mann, “Contradictions of Racism,” 91-4.

⁸¹ *Fundamental Constitutions of Carolina 1669*, accessed February 10, 2019, The Avalon Project.

⁸² Bernasconi and Maaza Mann, “Contradictions of Racism,” 90.

Consequently, Locke likely helped shape the institution of modern, race-based, chattel slavery. When considering whether or not Locke's social contract and other ideas presented in the *Second Treatise* may justify slavery, it is useful to look at whether or not they were utilized to justify slavery at the time of their writing. If Locke considered his own ideas when investing in and profiting off of slave companies or when he helped write the *Fundamental Constitutions*, then it seems apparent that the *Second Treatise* does provide justification for race-based, chattel slavery, or at least Locke thought it did. Regardless, the fact that Locke argued that those who do not appropriate with their labor are breaking the most basic law of nature, and are thus putting themselves in a state of war where they may be appropriately punished, perhaps by enslavement, demonstrates that at the very least, a form of slavery that is necessarily racialized is supported by his social contract and ideas surrounding war.

Therefore, Locke's social contract cannot be claimed to be truly egalitarian. Instead, Locke's social contract ultimately supports and encourages colonialism and justifies some form of race-based slavery, perhaps to the extent of chattel slavery. The social contract is able to do this because it effectively strips non-white individuals from their personhood, as they do not labor to appropriate from the state of nature or to improve resources, thus demonstrating a lack of rationality and a disobedience of the laws of nature. Non-European individuals may then be deprived of the land they live on, the resources surrounding them, and their own labor—it is, in fact, the duty of civilized (white, European) individuals to do this, as violations of the laws of nature must be punished. For these reasons, Locke's social contract is racist.

Objection: Rationality, hierarchization, and conquest

I will now consider objections to the overall structure I have presented and summarized. This section has, so far, acted as refutation to the idea that Locke's philosophy, specifically his social contract, can or should be understood as egalitarian. I will now also consider the objection that Locke does not support arranging groups of people into hierarchies, and consequently does not support empires. This objection is primarily articulated in historian David Armitage's article "John Locke: Theorist of Empire?," although I shall also examine related passages in Locke's writings to add context to Armitage's arguments.

Armitage argues that Locke is not an imperialist thinker—Armitage does not address the point of slavery, but rather focuses on colonialism, imperialism, and empire. Armitage argues that

[Locke] did not espouse or elaborate a hierarchical ordering of populations, least of all one that places Europeans above or even apart from other groups, because he saw rationality itself as evenly distributed among human populations and the usual markings of civilization as contingent and fragile.⁸³

The distinction that Armitage draws between colonialism and imperialism is whether or not groups of people are ranked, seemingly by rationality. Armitage states that Locke only once refers to Indigenous Americans as irrational, in the *First Treatise*, where Locke writes "the irrational untaught Inhabitants keep right by following Nature, are fitter to give us Rules, than Cities and Palaces, where those that call themselves Civil and Rational, go out of their way, by the Authority of Example."⁸⁴ Armitage argues that this passage demonstrates that Locke did not think that Indigenous Americans lacked rationality, or had any less than Europeans.

⁸³ David Armitage, "John Locke: Theorist of Empire?" in *Empire and Modern Political Thought*, ed. Sankar Muthu (Cambridge: Cambridge University Press, 2012) 87.

⁸⁴ Locke, *Two Treatises*, 183.

Armitage contends that the impact of this passage is that Locke would not support conquest, and thus cannot be imperialistic. To add context from the *Second Treatise*, we will briefly examine what Locke actually does say about conquest, just war, and unjust war. By abandoning civilization for war, the initiator of a war is committing an unjust act. Locke argues that “the aggressor, who puts himself into the state of war with another, and unjustly invades another man’s right, can, by such an unjust war, never come to have a right over the conquered.”⁸⁵ Locke does not specifically define what unjust and just wars are; notwithstanding, invading another civilized land would be unjust as the aggressor would be upsetting the contractual, just government of that land. Thus, Locke would probably view wars and conquest among most European countries as unjust.

Can these arguments about conquest be extended to the non-European world? Armitage believes they can be, as Locke allegedly viewed all people as equally rational, or at least equally capable of rationality, and thus did not create hierarchies. I have two responses to this: Locke *does* establish hierarchies, and Armitage’s version of textualism misconstrues the overall implications of Locke’s texts.

First, Locke does establish hierarchies. The arguments I have already presented so far support this point, but even considering the passage Armitage highlights in the *First Treatise*, hierarchies based on perceived rationality are still established. The passage cited by Armitage is: “the irrational untaught Inhabitants keep right by following Nature, are fitter to give us Rules, than Cities and Palaces, where those that call themselves Civil and Rational, go out of their way, by the Authority of Example.”⁸⁶ The purpose of this statement appears to be to criticize European leaders for violating the laws of nature. In this passage, Locke *directly* states that

⁸⁵ Locke, *Two Treatises*, 385.

⁸⁶ Locke, *Two Treatises*, 183.

people living in the Americas are irrational. He does argue that they more closely follow the laws of nature than do many rulers in Europe, but this is not done to credit Indigenous Americans, but rather to criticize European rulers. Consequently, this passage does not demonstrate a globally egalitarian outlook or lack of a hierarchical structure, but rather, that governments in Europe are unjust.

As previously mentioned, Locke writes that God gave the world to “the industrious and rational.”⁸⁷ But in Locke’s view, the people who are truly executing their industry and rationality are those who live in Europe—by not improving upon their God-given resources with their labor, non-Europeans are demonstrating that they are not using their industry and rationality. Armitage argues that Locke sees Indigenous Americans’ “contingent circumstances, their education, and their needs as shaped by their environment”⁸⁸ as the true source of inequalities between Europeans and Indigenous Americans, but once again, this outlook necessitates a Europeanization of non-Europeans in order to achieve true equality of personhood. Because Locke identifies differences in capacity regarding rationality and appropriation—regardless of cause—Locke’s views are therefore still racialized, colonialist, *and* imperialist.

The impact of this hierarchy is that conquest of the Americas by the “industrious and rational” is just. Protecting against a violation of one of the laws of nature would be a just war, as Locke explicitly states that such an action places the violator into a state of war, and proper response is necessary on behalf of those wronged. As previously stated, conquerors in a just war *do* have power over the lives of those who fought against them in that war. This power is “perfectly despotical.”⁸⁹ but does not extend to the property of the conquered, for this, according

⁸⁷ Locke, *Two Treatises*, 291.

⁸⁸ Armitage, “Theorist of Empire?” 100.

⁸⁹ Locke, *Two Treatises*, 387.

to Locke, is reserved for the children of the conquered people, as they did not participate in the war.⁹⁰ Since Indigenous Americans, Africans, and other non-Europeans are not in a state of civilization, conquering them would not be definitively unjust. Regarding appropriation of resources as it relates to conquest, it must be remembered that Locke sees very little property in America, per his definition of property. There could still be plenty of appropriation of resources in the Americas without violating Locke's ideas on just conquest. Therefore, Armitage is incorrect that Locke does not support hierarchies based on rationality, and thus does not favor conquest. In fact, Locke's writings demonstrate that exactly the opposite is true, and thus, his arguments on conquest are still consistent with colonialism, imperialism, and slavery.

Second, even if one were to believe that in this passage, Locke doesn't establish or value hierarchies based on rationality, to privilege this one passage over the rest of Locke's writings that *do* establish hierarchies based on rationality and labor would be inappropriate. One reference should not be preferred to the implications of the rest of Locke's writings, which have been outlined in the previous sections of this chapter. To do so is to minimize the rest of Locke's arguments on and statements regarding Indigenous Americans, which in turn minimizes the harmful impacts of these arguments. Ultimately, pursuing this line of argumentation misconstrues not only the specific passage Armitage cites, but also the overall implications of Locke's texts. Ultimately, it remains hierarchical, exclusionary, and racialized.

This demonstrates exactly how problematic any sort of reliance on Locke's social contract is. Fully accepting his social contract is to accept the racism that comes along with it; we could take the ideas of it that are, perhaps, more palatable, such as "a just government is one that

⁹⁰ Locke, *Two Treatises*, 389-90.

is formed at the consent of the governed.” This, however, is not fully possible, as removing the outlet of colonialism means that people who are not actively rebelling against their governments are tacitly consenting to all aspects of it. Likewise, the fact that violations of the laws of nature must be responded to, and that significant violations should be responded to with either death or slavery is also problematic, for if we remove the option of slavery, we are left with death—people may not be enslaved but could lose their lives instead, thus finally removing any barrier to accessing their seemingly non-appropriated land. If we continue to remove the morally and logically indefensible pieces of Locke’s theory, whatever results will no longer resemble Locke’s original ideas. It may be possible to be inspired by Locke’s social contract, but to attribute a stripped-down, truly egalitarian social contract to Locke is wrong, for these are no longer his ideas, for his ideas are dependent upon racism. It is likewise inappropriate to state that Locke’s social contract is truly egalitarian. Yet this does not mean that Lockean egalitarianism hasn’t inspired American egalitarianism—neither fosters equality for all, but rather Locke’s social contract and American government have both consistently supported equality for some. In other words, it is not incorrect to state that Locke inspired American political thought and government, but this must be qualified with the understanding that this inspiration has had negative impacts. It is not that we should be surprised that a 17th century Englishman was racist, but we should be troubled that the United States still attributes a *positive* theoretical basis for its existence to his ideas. There needs to be some sort of new foundational idea for what we consider to be a just government. Locke’s cannot suffice.

By examining what the *Second Treatise* explicitly says about non-European peoples, as well as what Locke’s justification of property, his social contract, and his ideas on war implicitly imply about them, his ideas have been shown to be inherently racist. Taking into consideration

the social contract's dependency on Europeans being able to move to the Americas and their right to appropriate the property and resources there, Locke's social contract is also innately colonialist and imperialist. When we also evaluate his social contract's insistence on labor as a standard for fulfilling a law of nature and achieving full personhood, as well as his theories regarding what entails and just war and what may be the results of a just war, we see that his ideas—and actions—also support race-based, chattel slavery. The continued use of his social contract to justify most modern western democracies is thus highly problematic. Locke's social contract ultimately supports and perpetuates a racialized world view; to continue to use it as a model for just governments isn't just at all.

Climatized Race and Rousseau

We have now established that Locke's social contract may be used to uphold chattel slavery and colonialism, and that Locke himself was not opposed to such things. We will now turn to the social contract of Jean Jaques Rousseau. It is important to note that Rousseau, in many places in his writing, states or argues implicitly that he adamantly opposes slavery, colonialism, and imperialism. It would be incorrect to assume that the social contracts of Rousseau and Locke have equivalent, or even similar racial implications—even if Rousseau's words, out of context, could be used to justify colonialism or slavery, this would not be in keeping with his intentions, as he opposed and criticized both of these institutions.

Notwithstanding, Rousseau's social contract has its own racial implications, primarily for rationality, personhood, and ultimately assimilation. The literature that discusses Rousseau's handling of race often focuses on his rhetoric—his repeated use of the word “savage,” for instance—but not on his social contract itself. Mills' *Racial Contract* is one instance of this, simply stating that the use of such language demonstrates that Rousseau othered non-Europeans and considered them not fully persons. Other pieces of literature examine Rousseau's ideas on personhood and rationality—Bernard Boxhill, whose arguments I shall be addressing later in this chapter—offers an overview on how an individual's perfectibility of rationality impacts the racial implications of Rousseau's arguments. Yet, neither of these contemporary authors link their observations on Rousseau's concepts of personhood and rationality to the social contract itself.

For these reasons, I believe it is useful to examine the racial implications of Rousseau's social contract specifically. The argumentation and goals of this chapter will thus differ significantly from those of Mills and Wynter. They will, however, ultimately affirm the

conclusions of the works of Mills and Wynter—that western thought has helped created, encode, and perpetuate a world view that is at least racialized, if not racist.

In this section, I will argue that Rousseau’s climatized worldview establishes Europe and Europeans as the epicenter of rationality, thus denying full personhood to those who are not Europeans or decedents of Europeans. I will evaluate the extent to which assimilation is possible or desirable for non-Europeans under Rousseau’s framework, as well as the implications of various solutions to this problem. Some subsidiary issues, such as Rousseau’s anti-colonialism and the climatization versus racialization of his worldview will also be considered.

Artifacts

Again, we begin this section with a brief overview of the literature of Rousseau’s day that purported to describe the practices, customs, and lives of Indigenous Americans and other non-Europeans. We will consider two texts from French explorers and missionaries who lived in the early French colonies in North America.

Joseph François Lafitau, a French Jesuit missionary and early anthropologist, published *Mores of Savage Americans* in 1724. This work focuses on religious differences among various groups of people around the world, as well as their capacities for being converted to Catholicism, and thus achieving rationality. As people from Persia (Iran), India, China, Japan, and Peru all already had a religion identified by Lafitau, they are considered capable of aspiring to “the profusion of an austere, penitent life, passing down to children abstinence, chastity, poverty, mortification, and finally, the practice of virtues.”⁹¹ In other words, because certain people have an identifiable religion, they are capable of understanding Lafitau’s religion, and thus may be

⁹¹ Joseph François Lafitau, *Moeurs des Sauvages Ameriquains: Compare'es aux Moeurs des Premiers Temps* (Paris: Charles-Estienne Hochereau, 1724) 2. Translated by me.

converted. This list of people who may be converted is not exclusive, as Lafitau also describes a religious coming-of-age ceremony that took place in Florida.⁹² Consequently, some Indigenous Americans have the capacity for conversion, and thus rationality.

Yet Lafitau also seems to argue that some non-Europeans, specifically those living in the Americas, lack any hope of conversion or rationality. He states, “But when speaking of the Barbarians, to whom one is warned there is no religion, and where in effect, there is little apparent religion, it is to me much more difficult to watch this conformity in their customs and in their uses.”⁹³ Per Lafitau’s writings, it is ambiguous whether or not he thinks that Indigenous Americans, on the whole, have the capacity for rationality, or whether they could eventually achieve it. Likewise, Rousseau’s writings will also be shown to demonstrate considerable ambiguity on this point, although I will ultimately argue that Rousseau does not think that many non-Europeans have full rationality.

The next work expands Lafitau’s scope, looking both at people who live outside of the Americas, and at different methods of categorization outside of religion. Jesuit missionary Pierre-François-Xavier de Charlevoix has been considered the first historian of the French colonies in the Americas. In 1744, eleven years before Rousseau wrote the *Discourse on the Origin of Inequality*, Charlevoix published *History and General Description of New France*. This work primarily contains detailed descriptions of numerous Indigenous tribes living primarily in what is now Quebec. Charlevoix begins his piece by defining the “New World”—it is not just the Americans, but rather “all countries unknown to Europeans before the fourteenth century.”⁹⁴ He then briefly describes people living in various parts of this New World. Those

⁹² Lafitau, *Moeurs*, 24.

⁹³ Lafitau, *Moeurs*, 2-3.

⁹⁴ Pierre-François-Xavier de Charlevoix, *History and General Description of New France*, trans. John Gilmary Shea (New York: Francis P. Harper, 1900) 5.

living on the Cape of Good Hope are “mild, sociable, and well made.”⁹⁵ The Aztecs are civilized in Charlevoix’s eyes insofar as they have mines,⁹⁶ but not to the extent that they have abandoned human sacrifice.⁹⁷

Charlevoix sees the primary motivation of French colonialism as spiritual. He states, “the founders of [French] colonies, had it, for the most part, far more at heart to plant the Faith among the savages, than to acquire wealth.”⁹⁸ This is necessary, as the Indigenous tribes have not heard of Charlevoix’s Catholic faith, but have “instead lain buried in the thickest darkness of infidelity.”⁹⁹ Consequently, colonialism, or at least established missions, is necessary to save the souls of the Indigenous people.

The other important aspect of Charlevoix’s work is that it alludes to a developing concept of race, specifically a concept that is linked to climate and physical environment. Charlevoix writes, “There are many blacks among these islanders [of the Caroline Islands], who are supposed to come from New Guinea, mestizos, and whites.”¹⁰⁰ Here, a concept of race is developed, based on skin color and parentage. This is later linked to physical environment. Some areas of the world are made up of “only frightful districts, impracticable for any but wandering savages.”¹⁰¹ Consequently, the land shapes people, and certain environments are suitable for only certain types of people. Both land and people have varying degrees of acceptability. Finally, Charlevoix writes that “it must be avowed that it would be a strange thing to find black men so near the Pole, and in a climate where the very bears are white.”¹⁰² Here, climate influences skin

⁹⁵ Charlevoix, *History*, 26.

⁹⁶ Charlevoix, *History*, 32.

⁹⁷ Charlevoix, *History*, 30.

⁹⁸ Charlevoix, *History*, 12.

⁹⁹ Charlevoix, *History*, 104.

¹⁰⁰ Charlevoix, *History*, 64.

¹⁰¹ Charlevoix, *History*, 124.

¹⁰² Charlevoix, *History*, 126.

color—northern regions should support light skin colors, according to Charlevoix, while those closer to the Equator should apparently foster dark skin colors.

Charlevoix's writing is important to understanding Rousseau's cultural climate because it describes commonly held ideas about Indigenous Americans that Rousseau would likely have been aware of. Moreover, Charlevoix has begun to classify people not just based on their religion or perceived degree of civilization, but also based on where they live and what they look like. Finally, Charlevoix links these last two categorizations together, tying this emerging concept of race to climate and physical environment. As we shall see, Rousseau does much the same.

Social Contract and Implications

We must first reconstruct Rousseau's contract. Previously, I implied that Rousseau writes of two social contracts. In *Discourse on the Origin of Inequality*, Rousseau outlined his belief that a contract took people from the state of nature and into civil society. In *The Social Contract*, Rousseau describes a contract that establishes just government. I believe that treating both of these events as separate, yet related social contracts is not only the most comprehensive way of reading Rousseau, but also the most charitable. This section will describe Rousseau's state of nature, both social contracts, and the implications of the second social contract.

State of nature

As with Locke, we will begin in the state of nature. Rousseau's state of nature is a marvelous place where people exist in a state of freedom and equality—this is opposed to the inequality and lack of freedom that Rousseau identifies in society.¹⁰³ People in the state of nature are stronger,

¹⁰³ Jean-Jacques Rousseau, *Discourse on the Origin and Foundations of Inequality among Men*, trans. Donald A. Cress (Indianapolis: Hackett Publishing Company, Inc., 1992) 1.

healthier, and seemingly happier than those in society. Indeed, Rousseau believes that the majority of bad influences in the world—corruption, greed, selfishness—stem from society, and did not exist to great extent in the pre-civilized state of nature.

People in the state of nature have the capacity to reason, just as people in civil society do. It is this capacity for rationality that separates humans from other animals.¹⁰⁴ People, by nature, are self-interested, but they also possess the capacity for pity.¹⁰⁵ It is the capacity for pity that prevents the state of nature from devolving into violence. Moreover, people possess the capacity for perfectibility.¹⁰⁶

Yet it does not appear that the state of nature can create total human perfectibility. Rousseau writes, “All the progress of the human species continually moves away from its primitive state.”¹⁰⁷ This does not necessarily mean that all progress is good, however, for “some [people] improve or declined and acquired various good or bad qualities which were not inherent in their nature.”¹⁰⁸ Moreover, while people in the state of nature possess the capacity for perfectibility, the fulfillment of this is not possible without “the chance coming together of several unconnected causes.”¹⁰⁹ Thus, there is some sort of push away from the state of nature, to a future that could be both beneficial and harmful.

One aspect of humanity that seems to be imperfectable in the state of nature is rationality. Rousseau argues that some levels of advanced thought are not obtainable in the state of nature.¹¹⁰ Instead, people in the state of nature, while possessing the capacity for rationality, cannot achieve this, and thus make their decisions with similar motivations as animals:

¹⁰⁴ Rousseau, *Discourse*, 13.

¹⁰⁵ Rousseau, *Discourse*, 14.

¹⁰⁶ Rousseau, *Discourse*, 25.

¹⁰⁷ Rousseau, *Discourse*, 11.

¹⁰⁸ Rousseau, *Discourse*, 11.

¹⁰⁹ Rousseau, *Discourse*, 43.

¹¹⁰ Rousseau, *Discourse*, 13.

Savage man, left by nature to instinct alone, or rather compensated for the instinct he is perhaps lacking by faculties capable of first replacing them and then of raising him to the level of instinct, will therefore begin with purely animal functions. Perceiving and feeling will be his first state, which he will have in common with all animals. Willing and not willing, desiring, and fearing will be the first and nearly the only operations of his soul until new circumstances bring about new developments in it.¹¹¹

In addition to lacking full rationality, Rousseau also states that people living in the state of nature cannot access abstract concepts such as beauty, love,¹¹² or morality—“savages are not evil precisely because they do not know what it is to be good.”¹¹³ Consequently, while people in the state of nature are separate from non-human animals by virtue of their potential, their actual state places them in a similar camp as non-human creatures.

To support his views, Rousseau cites incidents regarding non-European individuals. He specifically states that Caribbean islanders are those that live closest to the state of nature.¹¹⁴ Rousseau says an individual living in the Caribbean islands, and presumably others living relatively close to the state of nature, lacks philosophy and foresight; Rousseau states that “In the morning he sells his bed of cotton and in the evening he returns in tears to buy it back, for want to having foreseen that he would need it that night.”¹¹⁵ Arguably, then, the closer one is to the state of nature, the less rationality one has. People contemporary to Rousseau whom he felt to be living close to the state of nature would thus have less rationality than him. Notwithstanding, Rousseau is careful to note that lack of rationality is not grounds for violence or domination—one should not harm another human because that person is *sentient*, not because they are

¹¹¹ Rousseau, *Discourse*, 26.

¹¹² Rousseau, *Discourse*, 39.

¹¹³ Rousseau, *Discourse*, 36.

¹¹⁴ Rousseau, *Discourse*, 40.

¹¹⁵ Rousseau, *Discourse*, 27.

rational.¹¹⁶ Unlike Locke, Rousseau does not think that not using one's full rational capacity is a violation of the laws of nature. Instead, it is part of the state of nature itself.

First social contract

It thus seems that leaving the state of nature would be a desirable thing—but Rousseau disagrees. Rousseau argues that as more people populate the state of nature, language will eventually develop; this, in turn, will cause communities to be formed.¹¹⁷ Communities caused people's minds to become more enlightened, and for industry and technology to develop and progress.¹¹⁸ Eventually, someone will establish private property, thus formally marking the exit from the state of nature.¹¹⁹ All inequalities, apart from those of a physical nature, stem from the creation of private property.¹²⁰ Rousseau writes that “As soon as one man realized that it was useful for a single individual to have provisions for two, equality disappeared.”¹²¹ For Rousseau, then, private property and greed go hand-in-hand. One necessitates the other.

The creation of private property, leaving the state of nature, and entering civil society thus form the first social contract, described in the *Discourse on the Origin of Inequality* and described in a distinctly negative light. This first social contract does not just foster greed and corruption, however. The establishment of civil society also causes people to become slavish, “weak, fearful, and servile.”¹²² This is because Rousseau believes that society causes people to become soft and lazy, but also because the inequalities that develop from society eventually

¹¹⁶ Rousseau, *Discourse*, 14.

¹¹⁷ Rousseau, *Discourse*, 31.

¹¹⁸ Rousseau, *Discourse*, 47.

¹¹⁹ Rousseau, *Discourse*, 44.

¹²⁰ Rousseau, *Discourse*, 16.

¹²¹ Rousseau, *Discourse*, 51.

¹²² Rousseau, *Discourse*, 23.

cause oppression and the perpetuation of an unfair system. Rousseau states that people who are treated unfairly because of societal inequalities still approve of this system, for “they consent to wear chains in order to be able to give them in turn to others.”¹²³ Thus, inequalities that develop will remain unaddressed, even by those who are most impacted by them.

Second social contract

It is because this first social contract, this perverse social contract, occurred that a second, necessary social contract must be established. This social contract creates a just government. While the state of nature is preferable to any form of civil society, it cannot be reentered, and so the second social contract makes the best of a bad situation.

Rousseau argues that “one is only obligated to obey legitimate powers.”¹²⁴ What, then, is this legitimate power? It takes the form of a government designed to preserve any freedoms that remain after people have left the state of nature. People do not have the resources to protect themselves, and unity is the only way of protecting existing resources and ensuring self-preservation. This need for self-preservation, however, must be reconciled with cooperation and the surrendering of resources.¹²⁵ A just government will provide the necessary balance for these seemingly competing interests.

This is achieved through the sovereign and its expression of the general will. The general will is a position the citizens of the state arrive at together. The body of citizens, or the sovereign, is able to decipher the general will through public discussion and debate; the

¹²³ Rousseau, *Discourse*, 66.

¹²⁴ Jean-Jaques Rousseau, *The Collected Writings of Rousseau, Vol. 4*, ed. Roger D. Masters and Christopher Kelly (Hanover, NH: University Press of New England, 1994) 134.

¹²⁵ Rousseau, *Collected Writings*, 138-39.

government then enacts what the general will is. According to Rousseau, individuals can have opinions and desires that run contrary to the general will, but every citizen will eventually arrive at the same general will.¹²⁶ Moreover, “whoever refuses to obey the general will shall be constrained to do so by the entire body; which means only that he will be forced to be free.”¹²⁷ Rousseau is thus confident that the general will shall ultimately express beneficial views, and that a just government will fully maximize this will of the citizens.

There are additional benefits to the second social contract besides the establishment of a just government. Rousseau believes that a just government will come as close as possible to enshrining the freedoms individuals had in the state of nature. Moreover, a just government, created by the second, necessary social contract, upholds equality; Rousseau states that all *citizens* will be treated equally by a just government.¹²⁸ Finally, the second social contract will foster rationality. Rousseau writes that the civil state “changed [the individual] from a stupid, limited animal into an intelligent being and a man.”¹²⁹ Civilization is thus necessary to achieving full rationality, and thus essential to perfectibility.

Civilization is problematic to Rousseau for an endless amount of reasons. Yet, it does give one distinct benefit, even if a given society has not created a second social contract—it confirms the rationality of the people who create and sustain it. Without civilization, there is no proof of rationality. Likewise, Rousseau believes that lack of civilization is proof of lack of rationality—this is why those in the state of nature are both uncivilized and not fully rational.

¹²⁶ Rousseau, *Collected Writings*, 140-41.

¹²⁷ Rousseau, *Collected Writings*, 140-41.

¹²⁸ Rousseau, *Collected Writings*, 194.

¹²⁹ Rousseau, *Collected Writings*, 141.

Geneva

Rousseau believed that different societies should have different types of government, as different population sizes, different geographical boundaries, and different climates required different ways of governing. The next section will examine the idea of climate more closely, but first, we must briefly describe Rousseau's vision of the most ideal government—Geneva, Rousseau's birthplace.

Rousseau's Geneva is a government where the general will is expressed by the sovereign and upheld by the government—considering this, it is not surprising that Rousseau dedicated the *Discourse on the Origin of Inequality* to the state. The government of Geneva, at the time of Rousseau's writing, was a representative democracy, albeit representative of those granted the status of citizen, and not all people living in Geneva. Rousseau praises the citizens of Geneva, stating, “You have no other masters but the wise laws you have made, administered by upright magistrates of your own choosing.”¹³⁰ It is Geneva that represents the ideal form of government for Rousseau, and thus it is apt to hold Geneva up as the sort of government that would be created by the second social contract.

Geneva's inhabitants, at the time of Rousseau's writing, were broken down into five classes representing their political and legal status. Rousseau cites French mathematician and thinker Jean le Rond d'Alembert's description of these classes, and then further explains each of them.¹³¹ Citizens. For Rousseau, are those who make up the sovereign and express the general will. Citizens in Geneva were the sons of the bourgeois, and were born in the city. Citizens could be magistrates, and were thus in charge of interpreting and executing the general will. The second class of inhabitant was the bourgeois. One could be a bourgeois living in Geneva in two

¹³⁰ Rousseau, *Discourse*, 6.

¹³¹ As explained by Rousseau in his footnote in *Collected Writings*, 139.

ways. One could be the son of a bourgeois or citizen, but be born outside of Geneva. One could also be a foreigner who was granted the status of bourgeois by the government. Regardless, the bourgeois could be members of the Grand Council, a legislative body. Members of the bourgeois could not be magistrates, however. The third class of inhabitant was made up of residents. Residents were foreigners who resided in Geneva by special permission, but they lacked governing rights and political power. Natives, the fourth class, were the sons of residents. They had additional privileges that residents did not have, but natives still lacked governing rights. Finally, foreigners were the fifth class. This class consisted of anyone who was not a citizen, bourgeois, resident, or foreigner.

Rousseau's Climatization

Before moving on to address the racial implications of Rousseau's social contract(s), we must look at another aspect of his philosophy—climatology. In this context, climatology refers to the impact climate and location in general have on the people who live in a particular area. Physical location and climate, for Rousseau, are critical in determining what type of government is best suited to a particular group of people.

As previously stated, a country's type of government should be partially determined by physical size and population.¹³² Yet Rousseau also states that "The same laws cannot be suited to such a variety of provinces, which have different morals, live in contrasting climates, and cannot tolerate the same form of government."¹³³ Climate impacts the people who live in a particular region, shaping their values, their morality, and their temperaments. Consequently, people who live in states that have similar geographical sizes and similar populations, but are in very

¹³² Rousseau, *Collected Writings*, 160-61.

¹³³ Rousseau, *Collected Writings*, 159.

different parts of the world, should have different types of governments because the people themselves will be quite different. Even if these forms of government are different, they will both be just if they are both best suited to their respective states.

For Rousseau, the impact that climate, environment, and location have on people is immense. He writes that “one people is capable of discipline at birth, another is not after ten centuries.”¹³⁴ While everyone begins as equals in the state of nature, differing locations shape different groups in different ways. Thus, it is not people who choose which form of government best suits them, or what their society may look like, but the location itself implicitly chooses. Rousseau states that “in general the peoples of the north are more industrious than those of the south...as if nature thereby wanted to equalize things by giving to their minds the fertility it refuses their soil.”¹³⁵ Climate impacts rationality, and has caused people living in northern (European) countries to best develop their cognitive ability. He further cautions against Europeans moving to “hot countries,” arguing that “Europeans who want to live there in the same style as they do at home all die of dysentery and indigestions.”¹³⁶ Consequently, it seems that the influence of climate cannot be erased by simply moving to a new location.

Rousseau lists several specific examples of different types of just governments, appropriate for different locations. He considers aristocracy to be the best form of government for “the savages of North America,” and states that many Indigenous tribes are satisfactorily governing themselves this way.¹³⁷ While it may seem odd that Rousseau lauded the relative freedom that Genevans had while simultaneously supporting aristocratic governments for other groups, this is not a contradiction. Rousseau writes, “Freedom, not being a fruit of every Climate,

¹³⁴ Rousseau, *Collected Writings*, 158.

¹³⁵ Rousseau, *Discourse*, 27.

¹³⁶ Rousseau, *Collected Writings*, 183.

¹³⁷ Rousseau, *Collected Writings*, 174.

is not accessible to all peoples.”¹³⁸ Some groups of people require fewer freedoms because their location has shaped them in this manner. Of course, Rousseau does not believe that this is not the case for the citizens of Geneva, “where the citizens, long accustomed to a wise independence, were not only free but worth of being so.”¹³⁹

Rousseau then delineates which type of government is best suited for a given climate. He considers productivity and land quality good measures of different forms of climate, and thus makes his governmental distinctions according to the perceived fertility of the land. He states:

Unproductive and barren places, where the product is worth less than the labor to produce it, should remain uncultivated and deserted, or populated only by Savages. Places where the labor of men produces only the bare necessities should be inhabited by barbarous peoples; any polity would be impossible there. Places where the surplus of products over labor is moderate are suited to free peoples. Those where abundant and fertile soil produces a great deal with little labor demand monarchic government.¹⁴⁰

Here, we see not only a breakdown of Rousseau’s notions of land quality and government type, but also a breakdown of his views on people. Savages do not produce valuable products, and thus should live in areas where it is very difficult to produce anything of value. They do not produce anything of value because their climate has shaped them so, and thus they must continue to live in such a climate. Barbarians can (scarcely) provide for themselves, and therefore should live in areas where the soil is just fertile enough to produce the bare minimum. Expressing the general will is deemed impossible. Free peoples, such as the Genevans, should live in areas where one must work for products, but labor is not excruciating. Areas where production is high should be monarchies.

¹³⁸ Rousseau, *Collected Writings*, 181.

¹³⁹ Rousseau, *Discourse*, 3.

¹⁴⁰ Rousseau, *Collected Writings*, 182.

It is consequently clear that Rousseau's worldview is impacted by the notion that climate impacts the temperament, rationality, and values of both individuals and societies. The influence of physical location is not something that can easily be undone, however, if at all. Coupled with Rousseau's social contract(s), we begin to see how his philosophy could pose significant questions regarding rationality, personhood, and assimilation.

Impacts on Assimilation

Rousseau does not advocate for a multicultural, ethnically diverse society. Doing so was not, of course, the focus of his writing. Yet his ideas ultimately uphold a worldview where civilization—Europeanization—is a prerequisite for achieving full rationality, and where the prospects for a non-European individual achieving full rationality through assimilation are slim, if not near-impossible. To provide some clarification, assimilation is the process by which a group of people adapts to and eventually practices the values, customs, and mores of a given society; integration occurs when the group undergoes the same process, but not to the extent that they lose any unique practices of their own. In the United States, we often distinguish between American culture and society being a melting pot (assimilated) or a mixed salad (integrated)—this is another way to conceptualize the difference between these concepts.

As previously stated, Rousseau argues that people are not able to achieve full rationality unless they leave the state of nature and enter into civil society. The more advanced a society is, and the more apparent signs of civilization that it shows, the more rationality the people in it must have obtained. Civilization is evidence of rationality. Thus, if one group of people is closer to existing in the state of nature than another group, the first group must be made up of less rational individuals.

Yet in some instances, people have left the state of nature and formed civil society. In others, people have not. If everyone began as equals in the state of nature, what accounts for this difference? Rousseau believes that this gap is caused by climate and physical location of a society. Those in temperate, or European, climates will ultimately desire to form just governments. As people living in these climates are most suited for freedoms, their governments will account for this, and be Geneva-esque. People living in hot climates, however, may not form governments, may not form just governments, or may form a just government that does not allow the amount of agency that a just government in a temperate state would allow. Regardless, climate impacts the cognitive abilities of individuals and societies, consequently impacting the type of government that is formed, if one is formed, and if the given group truly leaves the state of nature.

What, then, are the options for a person living in a society that Rousseau claims is close to the state of nature? The individual may stay in their society—Rousseau believes this is preferable, as differing societies will corrupt one another and people are not suited to live in circumstances and societies that appear to be radically different from where they have previously lived. Yet this leaves the individual in a state where they lack full rationality. People in civilized states must be fully rational, for civilization is necessary for rationality. The individual could go to a European state, perhaps Geneva, in pursuit of rationality. Here we see two options: the individual must become Europeanized or the individual is unable to assimilate.

Why these two choices? When Rousseau criticizes Europeans for moving to “hot countries,” presumably colonies, he states that they become sick because they want to live in these countries as they did in Europe. Arguably, then, these people could find a way to live *not* as they did in Europe, which could prevent the sicknesses Rousseau identifies. If an individual

wants to live in a place that is very different from where they have previously lived, they must lose many of their previous customs and instead adapt to their new living situation. The Europeans living in the hot countries must live as people in the hot countries do. Likewise, a non-European, “savage” individual would need to live as a European were they to move to Europe. Rousseau does not divulge what this entails. It is also uncertain as to whether living in civilization, living among rational people, and living in a climate conducive to civilization and rationality actually produces rationality in an individual who comes from a non-civilized, non-rational state. It seems that Rousseau’s concept of perfectibility would allow people to make small improvements to their lives, and thus moving to Europe would not ensure full rationality, but would perhaps be a step above staying in a non-European country. Yet to achieve even this requires as much Europeanization of the individual as possible, whatever that entails.

Notwithstanding, Rousseau greatly criticizes his perception of civilization, and insists at multiple times that this would not be beneficial for non-Europeans. By no means is Rousseau a globalist. Instead, he believes that society corrupts, and different places in the world need different types of governments. Yet he also states that the most beneficial governments are only fit for those who are truly rational—and European. Consequently, there is a trade-off that would be required of the non-European individual. They could possibly achieve full rationality and personhood, but at the expense of being corrupted. Even for Rousseau, Europeanization is not a goal that is exclusively, or even primarily good. Yet close analysis of his social contract demands that this *is* the end goal, if rationality is the defining feature of personhood, and personhood is desirable.

Of course, this is not to say that Rousseau believes that it is actually possible for people from one region and climate to actually assimilate to the region and climate of another region.

His discussions of Europeans moving to “hot” climates and non-Europeans living in temperate climates demonstrates that the process of assimilation takes time; it may take generations for a group to fully assimilate into a new region. Consequently, Rousseau would believe that it is unlikely that people living in the state of nature could enter into civil society soon, if ever.

This leads us to the second option: assimilation, and thus full rationality, is not possible for the individual. It does not appear that climate causes changes instantly, but rather over a period of time. The Europeans that Rousseau criticizes for living in hot countries do not suddenly lose their rationality just because they have moved away from civilization. Moreover, Rousseau writes of the state of nature, the pre-civilized state, as if it occurred for a relatively lengthy time period. While climate impacted when civil society was established and what type of government existed, and consequently how close the people of that society could come to rational perfectibility, this is not something that instantly occurred after people came to be in the state of nature. Instead, it took time for climate to shape people in the way it allegedly did. Consequently, just because an individual moves to civilization and abides by the customs of that civilization does not mean that that individual will receive the benefits of that civilization. Perfectibility should be viewed not as an individual standard, but as a group standard. Thus, in Rousseau’s worldview, if a group of Caribbean islanders wished to obtain what Rousseau considers to be rationality, they would have to move from their hot country to a temperate one, and live in and adapt to civilization. In time, their decedents might begin to become fully rational, although Rousseau never guarantees this. Yet even if this were to occur, these people would no longer be Caribbean islanders, but rather inhabitants of this temperate, civilized, European state. It therefore is impossible to be both non-European and fully rational.

When we consider that perfectibility is not an individual but a group standard that develops over long periods of time—as Rousseau speaks about the perfectibility of peoples, not individuals—we must consider the prospects for citizenship and if there is even a meaningful opportunity for groups to eventually develop rationality over long periods of time. In other words, Rousseau’s first social contract and his views on climate have demonstrated that assimilation and development of rationality are very difficult, if not impossible, for individuals living in non-European territories. But it is the second social contract that formally excludes non-Europeans from European civil society.

In the second social contract, all citizens are equal and may participate in government, but not all inhabitants of an area are citizens. Geneva, for example, was broken down into five classes of people. If a person from a non-European country moved to Geneva, they would be classified as a foreigner. Likewise, if a person from France, for example, moved to Geneva, they would also be classified as a foreigner. Foreigners could, in some circumstances, be granted the status of bourgeois. Their children could then be citizens, if born inside the city. Rousseau does not specify when a foreigner can or should be granted this status, and it is arguably up to the sovereign. But let us consider who is more likely to be granted this status in this scenario. The person from France, who has lived in a similar climate and is similarly rational, seems to be a better candidate for citizenship than the person from a Caribbean island, who is viewed as non-rational. Rousseau’s citizens are rational, and thus those who are considered non-rational would be excluded from citizenship, possibly to the extent that there are no grounds to grant non-rational foreigners the status of bourgeois. Here, we see that the second social contract’s dependence on rationality as a requirement for participation in government effectively excludes

non-Europeans from participating in European civil society. Thus, assimilation becomes less and less likely, as one cannot assimilate into a sphere that one is prohibited from entering.

Rousseau has thus divided the world into European/civilized/rational/free and non-European/savage/non-rational/not-suited-for-freedom. His views on personhood, rationality, and climate draw a sharp distinction between European and non-European, but is this a racial distinction? This distinction could be purely geographic. Rousseau links rationality to nationality, and never explicitly to the color of a person's skin. Yet, to be European is clearly to occupy a privileged status in Rousseau's framework. To be European is to be civilized and rational, to have the capacity to create a just government that allows personal freedoms, and to have the best chances of fulfilling perfectibility. To be non-European is to be savage or barbaric, (or at the very least, not fully rational), to lack the capacity to create a just government that allows certain freedoms, and to have little chance of ever obtaining full rationality, even if an attempt is made to assimilate into a European society.

It is the fact that perfectibility is a group, not an individual, characteristic that moves Rousseau's framework closer to a racialized worldview. The individual from the Caribbean islands lack rationality because of their climate and lack of civilization. They lack rationality because they are from a Caribbean island. They lack rationality because they are Caribbean. While the distinctions that Rousseau draws begin in physical location and nation of origin, they ultimately function as distinctions drawn on race or ethnicity. It is thus fair to state that Rousseau's framework is racialized, and that his social contracts work together to privilege Europeans and their decedents over non-Europeans, and to exclude non-Europeans from obtaining the rationality that allows Europeans to be privileged.

Objections and Responses

I will now consider two objections to the arguments I have made. The first of these objections interacts directly with Rousseau's theory, but considers his views on personhood and rationality. As Rousseau's arguments regarding personhood and rationality form the basis of my criticism of his social contract, looking at this particular objection is appropriate. The second objection to my arguments is an external appraisal of Rousseau that argues that his social contract has liberationist tendencies, and thus can be appropriated for marronage. If true, this argument would arguably mean that an understanding of Rousseau's social contract as a racialized contract is not necessarily the best way to consider the contract's interaction with race. Instead

Rationality and perfectibility objection

In his article, "Rousseau, Natural Man, and Race," Bernard Boxhill argues that despite the fact that Rousseau believes that Europeans and non-Europeans currently differ in levels of rationality, the concept of perfectibility ultimately demonstrates that everyone *can* achieve high rational capacity.¹⁴¹ Moreover, the distinctions that Rousseau draws between Europeans and non-Europeans stem not from innate human characteristics, but rather from climate and physical location. For these reasons, Boxhill concludes that Rousseau's thought on personhood and rationality is not racist.

I agree with Boxhill that Rousseau believes perfectibility is universal, and not just limited to one group or another. Yet as previously stated, there is reason to believe that perfectibility is not obtained at the individual level, but rather at the social level. For Rousseau, Europeans are still rational, even if they move to a hot country. Likewise, individual non-Europeans would still

¹⁴¹ Bernard Boxhill, "Rousseau, Natural Man, and Race," in *Race and Racism in Modern Philosophy*, ed. Andrew Valls (Ithaca, NY: Cornell University Press, 2005) pp.

be considered savage and non-rational, even if they moved to a temperate country. Any changes that occur must occur with the development of the group as a whole. Because of this, the individual's capacity for perfectibility is ultimately negligible. Individuals cannot achieve full rational capacity if they are born into a society that Rousseau thinks lacks full rationality. Consequently, non-Europeans are denied full personhood and the chance to assimilate into European society—which for Rousseau, would be the only way of obtaining rationality. This reading of Rousseau does not address the group component of perfectibility.

Boxhill does state, however, that even those who live close to the state of nature express rationality in Rousseau's writings. Boxhill examines the previously mentioned anecdote Rousseau includes in the *Discourse on the Origin of Inequality*, where the Caribbean man sells his bed in the morning only to need it again in the evening. Boxhill writes that this “illustrates the Carib's lack of foresight rather than his lack of intelligence.”¹⁴² But this neglects the fact that foresight is a crucial component of rationality—not being able to consider plausible outcomes of actions seems to be irrational, or non-rational. Likewise, Rousseau uses this passage to specifically discuss the lack of rationality people in or near the state of nature have. Thus, Boxhill's reading misconstrues rationality and removes important context from Rousseau's words.

Finally, Boxhill argues that any distinctions Rousseau makes regarding rationality and intelligence stem from environment, not innate differences among groups of people. Because Rousseau was not a biological racist—or one who believes that certain traits are inherent to each race, and that there are —Boxhill argues that Rousseau's social contract cannot be racist.

¹⁴² Boxhill, “Natural Man,” 159.

Yet this is an extremely low bar for what racism is. Rousseau's racialization (and racism) is based on climatology, as I have argued and as Boxhill admits. Because of this climatological basis for race, Rousseau's concept of race ultimately acknowledges it as something of a construct, something that isn't innate, but instead something that is shaped by outside elements. Yet the consideration of race as a construct does not preclude one from being racist, it just means that one's prejudices are based not on incorrect science and sociology, but on arbitrary distinctions. In a way, this may be considered to be an even more pernicious form of racism, as the individual who ascribes to such an idea knows that there is no basis to their prejudices, yet holds them all the same.

Marronage objection

The second objection stems not from one particular author, although I shall be addressing one specific author's articulation of the objection, but from a significant school of thought in post-colonial philosophy. Specifically, some Caribbean post-colonialist philosophers believe that Rousseau's philosophy can be appropriated to support post-colonial liberation movements. This is often referred to as the creolization of Rousseau. Liberation movements can entail numerous forms and degrees of liberation, from freeing a nation from its colonizers to helping individual people forge their identities in the face of erasure. Arguments to this effect can be found from many authors writing in post-colonialist and Caribbean philosophical traditions.¹⁴³

In his book *Fugitive Rousseau*, Jimmy Casas Klausen states that Rousseau may be appropriated to support marronage, or the process by which one flees from an oppressive

¹⁴³ See, for instance, Volume 15 of the *CLR James Journal*, which offers numerous and varied perspectives on how Rousseau may be appropriated for post-colonial Caribbean liberation movements.

environment to forge their identity elsewhere.¹⁴⁴ The concept has traditionally been used to describe various forms of rebellion undertaken by slaves in the Americas, although Casas Klausen extends it to actions taken by any individual of color living in the Americas that helps liberate them from racial oppression and erasure. To illustrate his point, Casas Klausen cites the settlement established by escaped slaves in the Great Dismal Swamp in North Carolina.¹⁴⁵ He also describes dancer and actress Josephine Baker, who moved from the segregated South to Paris in the 1920s, as an example of his expanded definition of marronage.¹⁴⁶

How does this relate to Rousseau? Simply put, Casas Klausen argues that Rousseau's social contract implies that people ought to seek out the governments and societies that best suit them.¹⁴⁷ The United States in the 1920s was, to put it very lightly, neither a safe nor supportive environment for people of color; Josephine Baker found that she could thrive in Paris, and consequently moved to the society that offered her more freedom. Casas Klausen also draws upon Rousseau's other writings that are more oriented on social, rather than political philosophy. Casas Klausen especially analyzes Rousseau's novel *Émile*, arguing that the book supports the idea that travel is necessary to be a good citizen, and to learn which societies are the most beneficial and most desirable.¹⁴⁸

I take issue with Casas Klausen's particular interpretation of Rousseau's liberationist potential. Casas Klausen's interpretation of Rousseau's social contract and writings on travel is both correct and too basic to be fully accurate. It is true that Rousseau states that different governments and societies will be more or less suitable for different people. Yet suitability is tied

¹⁴⁴ Jimmy Casas Klausen, *Fugitive Rousseau*, (New York: Fordham University Press, 2014) 204-83.

¹⁴⁵ Casas Klausen, *Fugitive Rousseau*, 243.

¹⁴⁶ Casas Klausen, *Fugitive Rousseau*, 279.

¹⁴⁷ Casas Klausen, *Fugitive Rousseau*, 204-64.

¹⁴⁸ Casas, Klausen, *Fugitive Rousseau*, 115-58.

to the environment the person was born into, as has been previously mentioned. If an individual in one European country wished to move to another European country, Rousseau would probably agree that this person could possibly become a citizen, or at least assimilate to that society. Yet if a person from a non-European country wished to do the same, the influence of their radically different environment—and thus, radically different government—would almost certainly preclude them from citizenship or assimilation. Even if Rousseau’s social contract were to support the idea that people ought to move from place to place, searching for the best form of government, his own writings regarding race and climate indicate that for many people, there could be no practical benefit from this.

This is not to say that it is inappropriate to appropriate Rousseau in some capacity. But in order for this to be successful, his philosophy must be stripped of the climatology that accompanies it. The aspects of his philosophy that criticize despotism and corruption must be privileged over his ideas regarding human development and nature. I believe that it is conceivable to do this, primarily because philosophers working in the post-colonialist tradition have been doing so for decades. Yet to say that this is truly representative of Rousseau’s philosophy as a whole is not accurate, which Casas Klausen himself admits, calling his interpretation “heretical.”¹⁴⁹ In fact, the very notion of creolizing Rousseau depends on Rousseau’s philosophy *not* being accepted as is, but rather being reshaped to fit a more liberating narrative. It is thus possible to deracialize and redeem parts of Rousseau’s philosophy; to take it at face value, however, is to ascribe to his racialized notions of rationality, personhood, and citizenship.

¹⁴⁹ Casas Klausen, *Fugitive Rousseau*, 265.

The Disappointment of Rawlsian Justice

John Rawls, who is credited with reviving contractualism in the 20th century, is considered to be one of the greatest philosophers of that century, and one of the greatest American philosophers. When he was awarded the National Humanities Medal to philosopher John Rawls, President Bill Clinton called Rawls “the greatest philosopher of the 20th century” and credited him with reviving faith in democracy. The Heritage Foundation, a conservative thinktank, argues that Rawls’ theory has shaped American perceptions of equality, and has inspired decisions to that effect in multiple branches of government—including the Affordable Care Act and *US v. Windsor*.¹⁵⁰ Politicians and policies are often analyzed to see if they are Rawlsian.¹⁵¹ The name of John Rawls has been invoked about once a year for the past twenty years on the floor of British parliament.¹⁵² Rawls’ philosophy is championed (or criticized) as a hallmark of liberal, often American egalitarianism. Indeed, Rawls specifically states in *A Theory of Justice* that legalized discrimination based on characteristics such as gender, nationality, race, or religion is wrong. And then he stops.

I do not think that Rawls would not have wanted to be considered a racist. He would not want his philosophy to be considered racist. It seems that Rawls would be concerned about any negative racial ramifications of his philosophy, yet when tasked with addressing why he rarely even mentioned race in his writings, he would generally state that he was concerned with ideal

¹⁵⁰ Jerome Foss, “John Rawls: Theorist of Modern Liberalism,” The Heritage Foundation (August 13, 2014).

¹⁵¹ See, for instance, a Rawlsian analysis of Donald Trump and Bernie Sanders in Samuel Scheffler, “The Rawlsian Diagnosis of Donald Trump,” *Boston Review* (February 12, 2019); a Rawlsian critique of affirmative action in Robert S. Taylor, “Rawlsian Affirmative Action,” *Ethics* 119 (April 2009): 474-506; and a summary of Rawls’ impact on public administration in Stephen L. Esquith, “John Rawls and the Recent History of Public Administration,” *Journal of Management History* 3, no. 4 (1997): 328-41.

¹⁵² Information obtained by searching “Rawls” on the United Kingdom government watchdog website TheyWorkForYou.

justice, not racial justice.¹⁵³ Why is racial justice not a part of ideal justice? Considering this question, this chapter will be unique in that it will, at points, attempt to analyze what Rawls did not say, whereas the previous chapters have considered the ramifications of what was actually written by Locke and Rousseau.

Before delving into these arguments, however, there are some cautions we should consider. If a philosopher does not address racial concerns, this does not mean that they are racist or bigoted—it means that their focus is elsewhere. Notwithstanding, it seems that any theory of justice worth its weight ought to address *injustice*, including racial injustice. Rawls skirts this by presenting his theory as an ideal theory, or a standard of justice that ought to be considered the most desirable, and a standard that a society ought to be measured by or try to achieve—but as an ideal theory, there needn't be any description of a way of achieving this standard. It should also be noted that this is an ideal theory that explicitly condemns racism. Even so, a theory that condemns something may not, in practice, actually work to fight that concept.

This section will address the implications of Rawls' theory of ideal justice, specifically regarding the colorblindness suggested by a practical or applicable reading of Rawls. This will be accompanied by a critique of working within the framework of ideal, versus practical, theory itself. Ultimately, I will conclude that while not intentionally or explicitly subordinating, Rawls' philosophy offers little consolation to those concerned with matters of racial justice, that attempting to achieve the ideal Rawls has presented is often harmful, and that this last consideration should significantly dampen its effect as a complete, useful theory of justice.

¹⁵³ Ai-Thu Dang, "Eyes Wide Shut: John Rawls' Silence on Racial Justice," *Documents de Travail du Centre d'Economie de la Sorbonne* 15030 (Paris: Université Panthéon-Sorbonne, 2015).

Artifacts

The Civil Rights Act of 1964 was passed with the intent to end government-sanctioned discrimination. The Civil Rights Act prohibits voter discrimination, segregation of public facilities, and the refusal to serve people based on their race, ethnicity, or nationality. It encourages the abandonment of literacy tests and supports school desegregation.¹⁵⁴ This landmark piece of legislation has continued to shape the United States since its passage. It would later be cited in Supreme Court cases like *Heart of Atlanta Motel v. United States* to prohibit racial discrimination by businesses, and in cases like *Green v. County School Board of New Kent County* to further address school desegregation. The Civil Rights Act continues to benefit people living in the United States. Some, however, hold the belief that the Civil Rights Act “solved” racism in the United States. This belief is incorrect and, in many cases, harmful.

In 1978, shortly after Rawls published his first major work, *A Theory of Justice*, sociologist William Julius Wilson published one of *his* first major works, *The Declining Significance of Race: Blacks and Changing American Institutions*. This work proved to be controversial, as Wilson argued that economic status as opposed to race is a greater determinate of one’s position in society.¹⁵⁵ Wilson addressed the claims that racial discrimination is still rampant in American society in the epilogue to the second addition of his book. He acknowledges that racism still exists, but concludes, “Many blacks and white liberals have yet to recognize that the problem of economic dislocation is more central to the plight of the black poor than is the problem of purely racial discrimination.”¹⁵⁶ He additionally writes that if the impacts of past discrimination are accounted for, current African Americans are disadvantaged almost

¹⁵⁴ Civil Rights Act of 1964, Public Law 88-352 (July 2, 1964).

¹⁵⁵ William Julius Wilson, *The Declining Significance of Race: Blacks and Changing American Institutions*, second ed. (Chicago: The University of Chicago Press, 1980).

¹⁵⁶ Wilson, *Declining Significance of Race*, 182.

solely through economic means.¹⁵⁷ The problem that many had with Wilson's argument is that, while it acknowledge both past and present racism, it seemingly implied that concerns specific to people of color, especially African Americans, could be mitigated primarily through economic means. This seemed to ignore problems directly caused by prejudice—both explicit racism and actions caused by unrealized, subconscious biases.

The third artifact—not so much an artifact, as this incident is less than a year old—is anecdotal. While attending an undergraduate philosophy conference in the fall of 2018, I listened to several of my peers present their papers. The first speaker jokingly commented that his paper was first in order to get the controversial subjects out of the way—his paper was about race in America. He argued that racism is still prevalent in American society, using data regarding sentencing rates, economic power, and political representation to support his points. As I listened, I wondered what could possibly be controversial about acknowledging that racism still exists in almost every sphere of contemporary American life. I received my answer when the speaker entered the question and answer period of his presentation. Another undergraduate posed the first question, asking, “What would you say to someone like me, who believes that the abolition of slavery and the passage of the Civil Rights Act have mitigated any racial biases in the United States?” The speaker referred the questioner to the statistics he had cited in his presentation, which clearly outlined a pattern of discriminate behaviors.

Striving for significant solutions to racial injustices is essential. Yet it is highly unlikely that one single change, no matter how monumental, will solve such a complicated problem. Just as the abolition of slavery gave way to legalized racial discrimination, the abolition of legalized racial discrimination gave way to subtler ways of disenfranchising people of color, including

¹⁵⁷ Wilson, *Declining Significance of Race*, 167.

through sentencing procedures, housing covenants, and educational inequalities. The progress that has been made regarding racial justice should be celebrated, but it should not be considered a stopping point. Progress does not mean that a problem is solved, or that we now live in a post-racial society where colorblind laws are applied in a truly neutral, or even beneficial way. Yet the attitude that racial considerations are best addressed through neutral, colorblind laws that do not directly tackle racial issues exists in some contemporary interpretations of Rawls' social contract and philosophy. These will be discussed later in this piece.

Rawls' Social Contract

Before exploring Rawls' social contract, it will be useful to identify what "justice" is for him. For Rawls, justice is "the first virtue of social institutions,"¹⁵⁸ and justice is defined as fairness. This is the ideal form of justice, and consequently, Rawls devotes hundreds of pages to describing ideal justice, but not how to achieve it or how to keep it. Works like *A Theory of Justice* and *Political Liberalism* exist to define and justify Rawls' understanding of justice, and to defend why it is the best concept of justice.

As mentioned, Rawls identifies justice as fairness. This requires a consideration of what fairness is. Rawls states that a system is fair, and therefore just, if it is bound by an original agreement entered into by the members of the system.¹⁵⁹ This original agreement is ultimately theoretical and is facilitated by the veil of ignorance.¹⁶⁰ This famous thought experiment of Rawls' requires the individual—or in the case of a society, the group responsible for ordering the society—to imagine themselves stepping behind a veil, and imagine a society that they will

¹⁵⁸ John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971) 3.

¹⁵⁹ Rawls, *Theory of Justice*, 11.

¹⁶⁰ Rawls, *Theory of Justice*, 13.

enter. While those behind the veil know that those in that society are have ends and wish to achieve them, and that they have some concept of the good. Yet they know nothing else about this society, including its past or present state. They do not know when in time or where in space the society exists, or what types of people live in it. They also lack any knowledge about how they will enter this society:

The parties are not allowed to know the social position of those they represent, or the particular comprehensive doctrine of the person each represents. The same idea is extended to information about people's race and ethnic group, sex and gender, and their various native endowments such as strength and intelligence, all within the normal range.¹⁶¹

From this original position of complete ignorance, the individual or group is asked to determine which rules they would choose to help govern the society.

Rawls believes that from behind the veil of ignorance, one would reasonably choose two broad principles by which to guide society. The agreement reach behind the veil is Rawls' version of the social contract. The principles are intended for societies and governments, not individuals in their day-to-day lives.¹⁶² The actor(s) behind the veil will want to ensure that they may be as well-off as possible in the society into which they will enter. Being cautious and risk averse, the actor will choose two principles are designed to help the most disadvantaged members in any given society.¹⁶³

The first principle guarantees "requires equality in the assignment of basic rights and duties."¹⁶⁴ These basic rights include political liberties, such as voting and holding public office; freedom of speech, assembly, thought, and religion; the right to hold property; and the right to

¹⁶¹ John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005) 24-25.

¹⁶² Rawls, *Theory of Justice*, 54.

¹⁶³ Rawls, *Theory of Justice*, 17.

¹⁶⁴ Rawls, *Theory of Justice*, 14

resist arbitrary arrest, searches, and seizures.¹⁶⁵ It is under this principle that the few, but explicit, references to anti-discrimination may apply. Neither a group nor government may exercise their liberty to the extent that they persecute others.¹⁶⁶ Finally, this first principle of justice is prioritized. If it ever comes into conflict with the second principle of justice, the first principle is given preference.¹⁶⁷ Consequently, the first principle is designed to achieve absolute equality of treatment and opportunity.

The second principle of justice, sometimes called the difference principle, describes how the resources and power of a society should be distributed. This principle states that

Social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.¹⁶⁸

This principle also states that all positions and offices must be open to everyone in the society.¹⁶⁹ Thus, this principle allows inequalities only if they result in benefits for those who would otherwise be disadvantaged because of these inequalities, and society as a whole would be better off with these inequalities than with a state of perfect equality. For instance, wealth inequalities might be allowed if such inequalities resulted in the creation of better-paying jobs that were held by people on the lower end of the wealth gap, or if this resulted in the taxation of the wealthy for the purpose of funding programs designed to help those who are not wealthy.

Regarding this principle, Rawls addressing some concerns about unequal treatment. He specifically discusses treatment based on sex, race, and culture, and states that inequalities of these types are permissible if and only if the difference somehow creates a more preferable

¹⁶⁵ Rawls, *Theory of Justice*, 60-61.

¹⁶⁶ Rawls, *Theory of Justice*, 207.

¹⁶⁷ Rawls, *Theory of Justice*, 61.

¹⁶⁸ Rawls, *Theory of Justice*, 15.

¹⁶⁹ Rawls, *Theory of Justice*, 60.

distribution of primary social goods.¹⁷⁰ It is unlikely that unequal treatment based on immutable, if socially construed, characteristics would create a more preferable distribution of goods—this seems like a paradox. Thus, it is unlikely that a just society would ultimately permit different levels of treatment for different groups.

The individuals who step behind the veil of ignorance who allegedly identify and support these principles are, as previously mentioned, completely unaware of the society to which they will be entering. They are also unaware of who *they* are, both when they enter into the society and when they are behind the veil. What they do know is that they are moral, rational beings, and they want to be able to exist, thrive, and achieve their ends in whichever society they enter, no matter in which position they enter it.¹⁷¹ As stated, the two principles apply not to the people who uncover them, but to established entities, such as governments and the basic structures of society, which Rawls defines as (DEFINITION).

Ultimately, if one were to attempt to create a society that mirrors Rawls' ideal just society, that society would have laws and structures that apply to people neutrally and without regards to any defining characteristics they might have. Rawls writes that in an ideally just society, authorities “should be impartial and not influenced by personal, monetary, or other irrelevant considerations in their handling of particular cases.”¹⁷² Racially speaking, the government would legally not consider a person's race when interacting them. It might even be the case that in a Rawlsian society, race would not exist—an arbitrary social construct with the potential to cause harm and inequality would not align with the first principle of justice.

¹⁷⁰ Rawls, *Theory of Justice*, 99.

¹⁷¹ Rawls, *Political Liberalism*, 273.

¹⁷² Rawls, *Theory of Justice*, 57.

Is Ideal Theory Ideal?

It must be reiterated that Rawls is writing ideal theory, not practical theory. On one hand, Rawls' philosophy seems to have inspired the actions of numerous American civil servants, and so his intention of ideal theory does not necessarily matter, as the interpretation is often practical. The uptake of Rawls' writings is necessary to consider. On the other hand, we cannot discount the intentions of authors themselves. Rawls did not intend his theory to be practical or applicable, but rather to explain an ideal, the purest form of the value of justice. Consequently, he should not be blamed for other people erroneously interpreting and inappropriately using his theory.

If this argument is to be bought, then it comes with the acknowledgement that Rawls' theory of justice is purely ideal. This eventually becomes clear from Rawls' writings. While in *A Theory of Justice*, he will sometimes write in a way that is suggestive of practicality—by saying “arrangements can be made just,”¹⁷³ for instance—he ultimately clarifies that *A Theory of Justice* is purely ideal. In *Political Liberalism*, one of his last major works, he states “The aims of [*A Theory of Justice*] were to generalize and carry to a higher order of abstraction the traditional doctrine of the social contract.”¹⁷⁴ Consequently, analyzing Rawls' theory as he meant it to be intended will produce a different line of argumentation than analyzing how some of Rawls' readers interpreted his works, as we shall see later.

But reading Rawls' social contract as ideal opens up a new set of problems pertaining to race. Specifically, it seems that an ideal theory may not actually be a useful theory, as it does nothing to demonstrate how the theory is ever to be achieved. It has no practical implications for racial justice, especially as racial justice does not seem to be part of the overall Rawlsian framework. As he does not provide arguments for producing justice in a non-ideal society, Rawls

¹⁷³ Rawls, *Theory of Justice*, 87.

¹⁷⁴ Rawls, *Political Liberalism*, xv.

has little to offer anyone who seeks to address injustices. Ai-Thu Dang, an economist specializing in the economics of Rawlsian liberalism, states that Rawls understood that his work lacked practical application for matters of racial justice, but ended up stating, “This is indeed an omission in *Theory*; but an omission is not as such a fault, either in that work’s agenda or in its conception of justice.”¹⁷⁵

Moreover, the very nature of ideal theory seems to abstract it from reality. Rawls describes an ideally just society where all people have some basic understanding of the good, and generally follow the just rules that the just government has established. Moreover, the social contract established in the original position behind the veil of ignorance is entirely imaginary—the veil, of course, does not exist. Sheila Foster, a legal scholar specializing in critical theory and environmentalism, writes that “The abstract individual in the original position is very difficult for race scholars to reconcile with the historical and continuing reality of racial subordination.”¹⁷⁶ In other words, biases and prejudices are so entrenched into society that it would be impossible for a person to ever meet the ideal of truly being behind the veil of ignorance—I may try to step behind the veil, but the biases that I unknowingly carry with me will also be behind the veil with me. Of course, this is probably not a problem for Rawls, as the actors in ideal theory are themselves ideal—but also nonexistent. By presenting a theory that is neither applicable to nor achievable in reality, Rawls’ theory of justice would do very little for actual people, societies, and governments.

Charles Mills adds to this argument by arguing that Rawls’ theory of justice does not address racial justice because the choice to create an ideal theory was a function of Rawls’ own

¹⁷⁵ As quoted in Dang, “Eyes Wide Shut.”

¹⁷⁶ Sheila Foster, “Race and Ethnicity, Rawls, Race, and Reason,” *Fordham Law Review* 72, no. 5 (2004): 1718.

privilege.¹⁷⁷ Affluent, highly educated, white, and male, Rawls faced little discrimination or prejudice in his life. His theory of justice does not address issues that did not touch him. Mills considers ideal theory an ideology in and of itself, one that represents “a distortional complex of ideas, values, norms, and beliefs that reflects the non-representative interests and experience of a small minority of the national population—middle- to upper-class white males.”¹⁷⁸

Consequently, the actual structure and purpose of Rawls’ philosophy reinforces divisions that already exist.

Ultimately, an ideal reading of Rawls is ultimately a wonderful, if lengthy, exploration of one concept of justice—but nothing more. It provides no mechanism to address racial justice, and thus should not be considered an appropriate mechanism or theoretical basis to do so. This, of course, is an objection to all ideal theory, not just Rawls’ philosophy. In general, if one is concerned about achieving social justice in reality, ideal theory can be of some use in its description of a desirable world. Notwithstanding, ideal theory, in a vacuum, provides little utility. Martin Luther King described an ideal world but considered practical methods to achieve that world. Using Rawls’ ideal theory by itself to try to achieve racial justice does nothing—but is it possible to use Rawls’ philosophy as inspiration to elicit change through practical means? I argue that it is not.

Rawls and Colorblindness

As previously stated, Rawls’ ideal world appears to be one where the government and the basic structures of society do not consider a person’s race at all regarding the distribution of goods.

This society may even be post-racial or raceless; if so, race would not be ignored by social

¹⁷⁷ Charles W. Mills, *Black Rights/White Wrongs* (Oxford: Oxford University Press, 2017) 139.

¹⁷⁸ Mills, *Black Rights*, 79.

institutions and the government—it would not exist as a construct at all. This sort of thinking may, on paper, seem harmless or even beneficial. Indeed, colorblindness was important to the Civil Rights Movement, and Martin Luther King Jr.’s call for people to be judged on the contents of their characters seems to support a colorblind worldview.¹⁷⁹ Additionally, it is well-established in critical race theory that race is a construct created to subordinate. It seems that a society without this arbitrary distinction should be desirable. Yet when colorblindness is cited in contemporary discourses on race, it is often used with the false understanding that we already exist in a post-racial world. In other words, this is a world where racism no longer exists, race itself has been deconstructed, and consequently everyone is free to be judged for their merits, not based on the color of their skin, which is not a consideration at all.

While this is an admirable world to strive for, it is inappropriate to believe that that is the world in which we currently exist. Rampant inequalities in housing, employment, wages, sentencing, political representation, business ownership, media representation, etc. show that whiteness is still hegemonic in the western, liberal world. It is all very well for an individual to not discriminate based on a person’s race, but this does nothing to address the systemic inequalities that exist in a given society. Even if all present systemic inequalities were erased, this would not address the massive disadvantages that a group faced historically, and how these impacted their present.

A society that attempts to be colorblind—in an effort to mirror Rawlsian equality—but has not resolved past and present racial inequalities is harmful. Examples of this are prevalent, especially in the United States legal system. Due to concerns about discriminate sentencing procedures, courts and legislators created new policies that attempted to be as racially neutral as

¹⁷⁹ “Color Blindness,” in *Encyclopedia of Race, Ethnicity, and Society*, ed. Richard T. Schaefer (Thousand Oaks, CA: SAGE Publications, 2008) 320-21.

possible. Consequently, mandatory minimums, three-strikes laws, and strict criteria for capital punishment were all enacted with the written intent to decrease racial bias in the criminal justice system; they have not been successful and instead, have led to higher sentences for defendants, especially defendants of color.¹⁸⁰ This is the case because even laws that claim to be neutral and colorblind do not address the racially biased people circulating around these laws—the people who implement them.

This may also be seen in the United States regarding affirmative action. In the 2007 Supreme Court case *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, the Court struck down government-mandated affirmative action programs. Previously, affirmative action had been used to racially integrate schools, especially by bringing students of color into predominately white schools, which often were better funded and therefore offered a better educational opportunity. Chief Justice John Roberts concisely expressed a colorblind attitude in his concluding statement to the majority opinion: “The way to stop discrimination on the basis of race is to stop discriminating on the basis of race.”¹⁸¹ In other words, giving preferential treatment to one race over another is always wrong, regardless of whether or not that treatment is designed to rectify past wrongs and inequalities. Chief Justice Roberts seems to equivocate the systemic exclusion of black children and young adults from affluent white schools with prioritizing (but not demanding) admission for black children and young adults into these same schools. This attitude, that all race-based considerations are equivalent, allows existing systemic flaws to linger or even worsen.

While we ought to strive for a world where programs such as affirmative action are no longer necessary, getting rid of programs such as affirmative action are not the way to achieve

¹⁸⁰ Michelle Alexander, “The Newest Jim Crow,” *The New York Times* (November 8, 2018): Web.

¹⁸¹ *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. 701 (2007).

that world. Doing so does not address the problems that made the program necessary in the first place. The ramifications of a social construct must be addressed, not ignored. A theory that describes a society that is colorblind and may very well be raceless is useless for a society with race.

Objection

Tommie Shelby, scholar of African and African American studies, disagrees. Shelby believes that Rawls provides an appropriate framework for addressing racial concerns within his theory, stating that the theory rules out “most if not all familiar forms of racial injustice.”¹⁸² This is because Rawls specifically states that discrimination is wrong, such as when he writes, “We are confident that religious intolerance and racial discrimination are unjust.”¹⁸³ Because he makes such statements, it must follow that his theory will protect against racial injustice.

It is because of statements such as these that I think it is inappropriate to call Rawls a racist, whereas we can feel more confident applying the term to Locke or Rousseau. Rawls states that discrimination based on race is wrong, and then moves on. If there is a grey area between racism and working to prevent and undo racism, Rawls exists in this area. This does not mean that his theory of justice and the social contract that supports it actually create justice for all—in fact, the opposite seems to be true, in practicality, the theory provides no good way for addressing racial injustices, and ideally, the theory does nothing for any injustices that exist in reality.

¹⁸² Tommie Shelby, “Race and Social Justice: Rawlsian Considerations,” *Fordham Law Review* 72, no. 5 (2004): 1697.

¹⁸³ Rawls, *Theory of Justice*, 19.

But Shelby also contests that Rawls' theory provides arguments for governments to enact fair and neutral policies that will prevent arbitrary discrimination on behalf of the government—Shelby reads a practical component into the theory of justice.¹⁸⁴ Additionally, it is not a flaw in Rawls' theory that individual people, who may still have racial biases, are not addressed, because suitable just laws will prevent these biases from becoming harmful.

The existence of individual racism can be an obstacle to any person's effective choice and active pursuit of a rational plan of life under conditions of fair equality of opportunity. So, while the fact that some individuals harbor racist attitudes would still be a moral problem of some concern, were the overall system of social cooperation a just one or nearly so, this disturbing problem would not be such an urgent practical matter from the standpoint of disfavored racial groups.¹⁸⁵

Rawls agrees with this premise, and specifically states that one must judge whether or not an institution, society, or government is just or unjust based on its aggregate—“One or several rules of an arrangement may be unjust without the institution itself being so. Similarly, an institution may be unjust although the social system as a whole is not.”¹⁸⁶ Consequently, if individual people are racist, this does not mean that the system as a whole will cause racial subordination, discrimination, or exclusion.

Yet systemic, individual racism does exist. And in reality, it certainly does matter. Shelby's real-world application of Rawls must be analyzed in the context of the real world. Foster states, “As critical race scholars have powerfully argued, race/racism is not something that can easily be rendered ‘irrelevant’ or neutralized.”¹⁸⁷ Thus, even if a law is created with the intention of neutrality, those interpreting and applying the law are those who *actually* determine if the law is neutral. There is nothing innately racist about sentencing people to death, for

¹⁸⁴ Shelby, “Race and Social Justice,” 1701.

¹⁸⁵ Shelby, “Race and Social Justice,” 1713.

¹⁸⁶ Rawls, *Theory of Justice*, 57.

¹⁸⁷ Foster, “Race and Ethnicity,” 1717.

instance, but in the United States, when black men are sentenced to death more than any other demographic group, a neutral policy is shown to have been applied in non-neutral ways. Dang further argues that by ignoring biased actors, Rawls “fails to see that public reason can be distorted by racial stereotypes, faulty opinion formation and racially structured group interests.”¹⁸⁸ Even if we are to believe that Rawls provides proper mechanisms for creating a set of just laws, this does not ensure a just government or just society, because governments and societies are made up of not just laws, but also people—and people may be unjust.

Rawls’ social contract and the theory of justice that accompanies it do not offer recourse for concerns regarding racial injustice. The intended, ideal reading offers no consolation because of its of its inaccessibility: it offers no assistance for achieving its lofty goals, and actually describes a society entirely abstracted from reality. Someone who seeks to address racial inequalities will find little guidance from Rawls’ social contract and theory of justice. Yet people continue to attempt to apply Rawls’ theory to policy decisions and legal procedures, resulting in actions that purport to be colorblind. Yet colorblindness fails in a society that has not already achieved racial equality, for colorblind policies neither abate engrained biases nor undo previous inequalities.

When we consider the inefficacy of idea theory alongside a practical reading of Rawls, which results in seeing justice as colorblind, it appears that neither reading offers an appropriate way of evaluating racial concerns. While colorblindness and, later, a post-racial society may be admirable goals for the future, they are currently false visions of the present that result in policies

¹⁸⁸ Dang, “Eyes Wide Shut.”

that can do more harm than good to the people they were designed to help. Using Rawls to try to achieve racial justice in a non-ideal world is unviable.

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